



## Migration Amendment Regulations 2001 (No. 5)<sup>1</sup>

Statutory Rules 2001 No. 1<sup>2</sup>

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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 28 JUN 2001 2001

**WILLIAM DEANE**

Governor-General

By His Excellency's Command

PHILIP RUDDOCK  
Minister for Immigration and Multicultural Affairs

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**1 Name of Regulations**

These Regulations are the *Migration Amendment Regulations 2001* (No. / ).

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**2 Commencement**

These Regulations commence on 1 July 2001.

**3 Amendment of *Migration Regulations 1994***

Schedule 1 amends the *Migration Regulations 1994*.

**4 Transitional**

- (1) The amendments made by items [1] to [15], [15A] to [19], [31] to [40], [43] to [58], [60] to [90], [92] to [128], [134] to [136] of Schedule 1 apply in relation to an application for a visa made on or after 1 July 2001.
- (2) The amendments made by items [41], [42], [129] to [131] and [133] of Schedule 1 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 July 2001; or
- (b) made on or after 1 July 2001.
- (3) The amendments made by items [21] to [26], [29] and [30] of Schedule 1 apply to a nomination of a business activity made on or after 1 July 2001.
- (4) To avoid doubt, despite item [97] of Schedule 1, Parts 560, 562 and 563 (as they read immediately before 1 July 2001) continue to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2001.

## Schedule 1 Amendments

(regulation 3)

### Part 1.1 Amendments of Parts 1, 2 and 4

[1] **Regulation 1.03, after definition of *Asia-Pacific forces member***

*insert*

*assessment level*, in relation to a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, means the level of assessment (being level 1, 2, 3, 4 or 5) specified under Division 1.8 for a passport issued by a foreign country and for an education sector.

[2] **Regulation 1.03, after definition of *category B student***

*insert*

*certificate of enrolment*, means a paper copy, sent by an education provider to an applicant for a student visa, of an electronic confirmation of enrolment relating to the applicant.

**[3] Regulation 1.03, after definition of *custody***

*insert*

***Defence*** means the Department of Defence.

***Defence Minister*** means the Minister for Defence.

***Defence student*** has the meaning given in regulation 1.04B.

**[4] Regulation 1.03, after definition of *education provider***

*insert*

***education sector***, in relation to a student visa, means whichever of the following sectors of the Australian education system corresponds to a particular subclass of student visa:

- (a) Independent ELICOS sector;
- (b) Schools sector;
- (c) Vocational Education and Training sector;
- (d) Higher Education sector;
- (e) Masters and Doctorate sector;
- (f) Non-award Foundation/Other sector;
- (g) AusAID or Defence sector.

***electronic communication*** has the same meaning as in the *Electronic Transactions Act 1999*.

***electronic confirmation of enrolment***, in relation to an applicant for a student visa, means confirmation that:

- (a) states that the applicant is enrolled in a registered course; and
- (b) is sent by an education provider, through a computer system under the control of the Education Minister, to:
  - (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
  - (ii) an office of a visa application agency that is approved in writing by the Minister for the

purpose of receiving applications for a student visa; or

(iii) any office of Immigration in Australia.

*ELICOS* means an English Language Intensive Course for Overseas Students that is a registered course.

[5] **Regulation 1.03, definitions of *foreign naval forces member* and *Foreign Minister***

*substitute*

*Foreign Minister* means the Minister for Foreign Affairs and Trade.

*foreign naval forces member* means a person who forms part of the complement of a ship of the regular armed forces of a foreign government and is on board the ship.

[6] **Regulation 1.03, after definition of *international air carrier***

*insert*

*Internet application* means an application for a visa made using a form approved under paragraph 1.18 (2) (b).

[7] **Regulation 1.03, definition of *school-age dependant***

*omit*

not turned 19.

*insert*

not turned 18.

[8] **Regulation 1.03, note at the end**

*substitute*

*Note 1 aged parent* is defined in this regulation.

*Note 2 foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901*.

**[9] Subregulation 1.04A (1), definition of *AusAID student visa*, paragraph (a)**

*omit*

a Subclass 560 (Student) or Subclass 562 (Iranian Postgraduate Student) visa

*insert*

a Subclass 560 (Student), Subclass 562 (Iranian Postgraduate Student) or Subclass 576 (AusAID or Defence Sector) visa

**[10] Subregulation 1.04A (1), definition of *AusAID student visa*, subparagraph (a) (ii)**

*omit*

course of study

*insert*

full-time course of study

**[11] Subregulation 1.04A (1), definition of *cease***

*omit*

course of study

*insert*

full-time course of study

**[12] Subregulation 1.04A (1), definition of *equivalent former visa or entry permit*, paragraph (b)**

*omit*

course of study

*insert*

full-time course of study

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**[13] Subparagraph 1.04A (2) (b) (i)**

*omit*

course of study

*insert*

full-time course of study

**[14] Paragraph 1.04A (3) (a)**

*omit*

course of study

*insert*

full-time course of study

**[15] Subparagraph 1.04A (3) (b) (i)**

*omit*

course of study

*insert*

full-time course of study

**[15A] Subparagraph 1.04A (3) (b) (ii)**

*substitute*

- (ii) an applicant for a student visa whose application shows an intention to undertake a full-time course of study or training; and

**[16] Subparagraph 1.04A (3) (c) (i)**

*omit*

course of study

*insert*

full-time course of study

**[17] After regulation 1.04A**

*insert*

**1.04B Defence student**

A person is a *Defence student* if:

- (a) the person has been approved by the Defence Minister to undertake a full-time course of study or training under a scholarship scheme or training program approved by the Defence Minister; and
- (b) the person is:
  - (i) the holder of a Subclass 576 (AusAID or Defence Sector) visa granted in circumstances where the person intended to undertake the course of study or training; or
  - (ii) an applicant for a student visa whose application shows an intention to undertake the course of study or training; and
- (c) in the case of a person mentioned in subparagraph (b) (i) — the person has not ceased, completed, withdrawn from, or been excluded from:
  - (i) the course of study or training to which the visa relates; or
  - (ii) another course approved by the Defence Minister in substitution for that course.

**[18] Paragraphs 1.12 (2) (b) and (c)**

*substitute*

- (b) a dependent child of the applicant, or of that spouse, who is unmarried and has not turned 18.



[19] **Regulation 1.18**

*substitute*

**1.18 Approved forms**

- (1) The Minister may, in writing, approve forms for:
  - (a) use in making an application for a visa; or
  - (b) any other purpose authorised or required by these Regulations.
- (2) Each of the following is an approved form for use in making an application for a visa:
  - (a) a paper form;
  - (b) a set of questions in an interactive computer program that is:
    - (i) approved by the Minister for use in making an application for the visa; and
    - (ii) made available at an Internet site operated under the authority of the Minister.

[20] **Regulation 1.20B, definitions of *key activity* and *labour market testing***

*substitute*

*minimum salary level* means a level of salary worked out in the way specified in a Gazette Notice for the purposes of this definition.

[21] **Subregulation 1.20C (1), note**

*substitute*

*Note* In relation to the effect of approval as a pre-qualified business sponsor and a standard business sponsor, see subregulations 1.20D (5) and (6), and subclause 457.223 (4) of Schedule 2.

**[22] Subregulation 1.20D (1)**

*omit*

by instrument

**[23] Subparagraphs 1.20D (2) (b) (i) and (f) (i)**

*omit each mention of*

or (5)

**[24] Subregulation 1.20D (3)**

*omit*

An instrument approving

*insert*

An approval of

**[25] Paragraph 1.20D (4) (a)**

*substitute*

- (a) a copy of the written approval or refusal of the application; and

**[26] Subparagraph 1.20D (6) (a) (ii)**

*omit*

or (5)

**[27] Subregulation 1.20E (1)**

*omit*

by instrument

**[28] Paragraph 1.20E (4) (a)**

*substitute*

- (a) a copy of the written renewal of, or refusal to renew, the approval; and

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**[29] Subregulations 1.20G (2), (3) and (4)**

*substitute*

- (2) If the person is mentioned in paragraph (1) (b), (c) or (d), the tasks of the nominated activity must correspond to the tasks of an occupation specified in a Gazette Notice for the purposes of this subregulation.
- (3) A nomination must be made in accordance with approved form 1068.
- (4) If the person is mentioned in paragraph (1) (b), (c) or (d), the nomination must indicate that:
  - (a) the applicant will be paid at the level specified in the nomination; and
  - (b) that level will be at least the minimum salary level that applied at the time the nomination was made.
- (5) If the person is mentioned in paragraph (1) (c) or (d), the nomination must also be accompanied by a fee of \$225.

**[30] Regulation 1.20H**

*substitute*

**1.20H Approval of nominations of business activities**

- (1) The Minister must approve a nomination of an activity made under regulation 1.20G (a *nomination*) if the nomination is in accordance with:
  - (a) subregulations 1.20G (1) and (3); and
  - (b) if they are applicable — subregulations 1.20G (2), (4) and (5).
- (2) The Minister must refuse to approve a nomination if it does not satisfy the requirements of subregulation (1).
- (3) A decision to approve or refuse to approve a nomination must be made in writing.

- (4) The Minister must, as soon as practicable, give a copy of the approval or refusal to the person who made the nomination.
- (5) A refusal to approve a nomination must be accompanied by a written statement of the reasons for the refusal.
- (6) An approval of a nomination ceases to have effect at the earliest of the following:
  - (a) at the end of 12 months after the day on which the nomination is approved;
  - (b) when a Subclass 457 visa is granted to the individual proposed to be employed in the activity to which the nomination relates;
  - (c) in the case of a business activity nominated by a person who is a party to a labour agreement — when that agreement ceases to have effect;
  - (d) in the case of a business activity nominated by a person who is approved as a pre-qualified business sponsor or standard business sponsor — when the approval ceases to have effect;
  - (e) in the case of a business activity nominated by a person to whom paragraph 1.20G (1) (d) refers — upon the Minister becoming satisfied that the person is not able to comply with undertakings given by the person in accordance with approved form 1067;
  - (f) in the case of a business activity nominated by a person to whom paragraph 1.20G (1) (d) refers — upon the Minister ceasing to be satisfied that the person (apart from not operating a business in Australia) would, on application, be likely to be approved as a standard business sponsor.

[31] **After Division 1.6**

*insert*

**Division 1.8            Special provisions for  
                                 student visas**

**1.40        Definitions**

- (1) In this Division, a passport is an *eligible passport* if:
  - (a) it is a valid passport of a kind specified by Gazette Notice for the purposes of this subregulation; and
  - (b) the conditions (if any) specified by Gazette Notice for passports of that kind are satisfied.
- (2) In this Division, if:
  - (a) an applicant for a student visa proposes to undertake a course of study or training that includes more than one discrete course; and
  - (b) either:
    - (i) one of the courses of study or training (*course A*) is a prerequisite to another of the courses (*course B*); or
    - (ii) one of the courses of study or training (*course B*) may be taken only after the completion of another of the courses (*course A*);

course B is the *principal course of study or training*.

**1.40A      Courses for education sectors to be specified  
                 by Minister**

The Minister must specify by Gazette Notice the types of courses for each subclass of student visa, except Subclass 576 (AusAID or Defence Sector).

**1.41        Assessment levels to be specified by Minister**

- (1) The Minister must specify by Gazette Notice an assessment level for a passport issued by a foreign

country, in relation to each subclass of student visa, to which an applicant for a student visa who seeks to satisfy the primary criteria will be subject.

- (2) In specifying an assessment level, the Minister must consider the risk posed by applicants who hold passports issued by the foreign country in terms of:
  - (a) their being genuine students; and
  - (b) their engaging, while in Australia, in conduct (including omissions) not contemplated by the visa.
- (3) In considering the risk, the Minister must have regard to:
  - (a) 1 or more of the following statistics prepared by the Secretary in relation to the foreign country:
    - (i) the number of former holders of student visas who have become unlawful non-citizens;
    - (ii) the number of student visas that have been cancelled;
    - (iii) the number of applications for student visas that have been refused;
    - (iv) the number of fraudulent documents detected by Immigration in relation to applications for student visas;
    - (v) the number of holders of student visas who have applied for protection visas or for permanent visas other than Business Skills (Residence) (Class BH), Skilled — Independent Overseas Student (Class DD) and Skilled — Australian-sponsored Overseas Student (Class DE) visas; and
  - (b) any other matters that the Minister considers relevant.
- (4) The assessment level specified for a passport issued by a foreign country:
  - (a) must be a number from 1 to 5, with assessment level 1 specified for a passport, holders of which

- pose a very low risk and assessment level 5 specified for a passport, holders of which pose an extremely high risk; and
- (b) is not required to be the same for each education sector.

#### **1.42 Assessment level of applicant**

- (1) An applicant for a student visa who seeks to satisfy the primary criteria is subject to the assessment level of the eligible passport that the applicant holds at the time of decision and the education sector in which the applicant intends to undertake his or her principal course of study or training.
- (2) Despite subregulation (1), an applicant is subject to assessment level 2 if:
- (a) the application is made in Australia before 31 December 2006; and
- (b) the application is made on form 157A; and
- (c) the applicant:
- (i) is the holder of a Subclass 560 visa as a person who satisfied the primary criteria in Subdivisions 560.21 and 560.22; or
- (ii) is the holder of a Subclass 562 visa; or
- (iii) both:
- (A) is the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa (as a person who satisfied the primary criteria for the subclass) that is subject to condition 8105; and
- (B) was, immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 562 visa that was subject to condition 8101; and
- (d) apart from this subregulation, the applicant would be subject to assessment level 3, 4 or 5; and
- (e) subregulation (3) or (4) applies to the applicant.

- (3) This subregulation applies to an applicant who:
  - (a) was assessed in relation to an application for a student visa to undertake a package of courses of study; and
  - (b) was granted the student visa; and
  - (c) needs a further student visa to commence 1 or more courses in the package.
- (4) This subregulation applies to an applicant who:
  - (a) has completed at least 50% of the principal course for which the student visa held was granted; and
  - (b) needs a further student visa to complete that course.

#### **1.43 Notification of assessment level**

- (1) If, at the time of decision, the applicant holds 2 or more eligible passports issued by different foreign countries, the Minister must:
  - (a) select the passport that is to be taken as the applicant's eligible passport for the purposes of the assessment level to which the applicant will be subject; and
  - (b) notify the applicant of the passport selected and the level of assessment of that passport.
- (2) In selecting the passport, the Minister may have regard to the following:
  - (a) the foreign country of which the applicant is a citizen;
  - (b) the foreign country of which the applicant is usually a resident;
  - (c) any other relevant matter.

#### **1.44 Evidence required**

- (1) An applicant for a student visa who seeks to satisfy the primary criteria must give evidence about the applicant's English language proficiency and financial capacity, and about other matters, in accordance with



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the requirements set out in Schedule 5A for the assessment level to which the applicant is subject.

- (2) For Part 574 of Schedule 2, the Minister may specify by Gazette Notice a course of study that is not conducted in English as a course in relation to which the applicant need not give evidence of his or her English language proficiency.

**[32] After regulation 2.07AE**

*insert*

**2.07AF Certain applications for student visa**

- (1) Despite anything in regulation 2.07, an application for a student visa that, under paragraph 1222 (1) (a), may be made on form 157E may be made on behalf of an applicant.
- (2) An application that is made on form 157E is taken to have been made outside Australia.
- (3) An application made on form 157A or 157E by a person who seeks to satisfy the primary criteria (the *primary applicant*) must include:
- (a) the name, date of birth and citizenship of each person who is a member of the family unit of the applicant at the time of the application; and
  - (b) the relationship between the person and the applicant.
- (4) If a person becomes a member of the family unit of the primary applicant after the time of application and before the time of decision, the primary applicant must inform the Minister, in writing, of:
- (a) the name, date of birth and citizenship of the person and
  - (b) the relationship between the person and the primary applicant.
- (5) Subregulations (3) and (4) apply:

- (a) whether or not the member of the family unit is an applicant for a student visa; and
- (b) if the member of the family unit is not an applicant for a student visa — whether or not the member of the family unit intends to become an applicant for a student visa.

*Note member of the family unit* of an applicant for a student visa is defined in subregulation 1.12 (2).

**[33] Paragraph 2.08A (1) (a)**

*omit*

(except, subject to subclause (3), a Resolution of Status (Residence) (Class BL) visa)

**[34] After subregulation 2.08A (2)**

*insert*

- (2A) Subregulations (1) and (2) do not apply to an applicant for:
  - (a) subject to subregulation (3) — a Resolution of Status (Residence) (Class BL) visa; or
  - (b) a Skilled — Independent Overseas Student (Residence) (Class DD) visa; or
  - (c) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa.

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[35] **Regulation 2.08CA, heading**

*substitute*

**2.08CA Certain applicants for Skilled — New Zealand Citizen (Residence) (Class DB) visas taken to have applied also for Employer Nomination (Residence) (Class BW) visas**

[36] **After regulation 2.08CA**

*insert*

**2.08CB Certain applicants for Skilled — Independent Overseas Student (Residence) (Class DD) visas taken to have applied also for Employer Nomination (Residence) (Class BW) visas**

- (1) An applicant for a Skilled — Independent Overseas Student (Residence) (Class DD) visa, who has been nominated by an employer in respect of an appointment in the business of that employer, is taken also to have applied for an Employer Nomination (Residence) (Class BW) visa on the day when Immigration receives the employer nomination, if each of the following requirements is satisfied as at that date:
  - (a) the applicant was less than 45 years of age at the time of the application for the Class DD visa;
  - (b) a decision to grant, or refuse to grant, to the applicant a Subclass 880 (Skilled — Independent Overseas Student) visa has not been made;
  - (c) the applicant:
    - (i) has been assessed in relation to a Subclass 880 visa under Subdivision B of Division 3 of Part 2 of the Act; and
    - (ii) was given an assessed score that is more than or equal to the applicable pool mark at the time when the score was assessed;

- (d) the appointment for which the applicant has been nominated is an approved appointment for regulation 5.19 on the basis that the nomination meets the requirements of subregulation (4) of that regulation;
  - (e) the applicant:
    - (i) has vocational English; and
    - (ii) has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification.
- (2) If subregulation (1) applies to an applicant for a Class DD visa, any other person included in the applicant's application is taken also to be included in the applicant's application for an Employer Nomination (Residence) (Class BW) visa.

**[37] Subregulation 2.10 (1)**

*after*

An application for a visa

*insert*

(not being an Internet application)

**[38] Subparagraphs 2.10 (1) (b) (iii) and (iv)**

*substitute*

- (iii) if the application is for a student visa, and is made on form 157P:
  - (A) at any office of Immigration in Australia; or
  - (B) at the educational institution where the applicant is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or
  - (C) if the applicant holds a Subclass 560, 563, 570, 571, 572, 573, 574, 575 or

- 
- 576 visa as a member of the family unit of a person who, having satisfied the primary criteria, holds a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa — at the educational institution where the person is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or
- (iv) if the application is for a student visa (other than an application made on form 157P) and the applicant holds a student visa, and seeks to satisfy the primary criteria:
- (A) at any office of Immigration in Australia; or
  - (B) at the educational institution where the applicant is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or
- (v) if the application is for a student visa (other than an application made on form 157P) and the applicant holds a Subclass 560, 563, 570, 571, 572, 573, 574, 575 or 576 visa as a member of the family unit of a person who, having satisfied the primary criteria, holds a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa:
- (A) at any office of Immigration in Australia; or
  - (B) at the educational institution where the person is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or

- (vi) if the application is for a student visa and the applicant does not hold a student visa, and is subject to assessment level 1 or 2:
  - (A) at any office of Immigration in Australia; or
  - (B) at the educational institution where the applicant is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or
- (vii) if the application is for a student visa and the applicant does not hold a student visa, and the applicant seeks to satisfy the secondary criteria as a member of the family unit of a person who is subject to assessment level 1 or 2:
  - (A) at any office of Immigration in Australia; or
  - (B) at the educational institution where the person is enrolled (if the institution is approved in writing by the Minister for the purpose of receiving applications of that kind); or
- (viii) in any other case — subject to regulation 2.09 and subregulation (3), at any office of Immigration in Australia.

**[39] After subregulation 2.10 (4)**

*insert*

*Note* Requirements about where the applicant must be when making an Internet application are in Schedule 1.

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[40] **After regulation 2.12J**

*insert*

**2.12JA Payment of visa application charge for Internet application**

The visa application charge in relation to an Internet application:

- (a) must be paid by credit card, in accordance with the instructions given to the applicant as part of making the Internet application; and
- (b) is taken not to have been paid until the payment has been confirmed by the issuer of the credit card.

[41] **Subregulation 2.13 (5)**

*omit*

A document accompanying

*insert*

Subject to subregulation (6), a document accompanying

[42] **After subregulation 2.13 (5)**

*insert*

- (6) If an applicant or interested person is required or permitted to produce a document in connection with the visa application, the document and the written communication that accompanies it may be in the form of an electronic communication only if:
  - (a) the document is in a class of documents specified by Gazette Notice as documents that may be sent by electronic communication; or
  - (b) the Minister has permitted the applicant or interested person to send the document by electronic communication.

- (7) For subregulation (6), if the Minister requires an applicant or interested person to give the Minister the original of a document that has already been given by electronic communication:
- (a) the giving of the original, otherwise than by electronic communication, is a prescribed way of communication; and
  - (b) subregulation (5) applies to the original of the document.

**[43] Subparagraph 2.16 (1) (a) (ii)**

*omit*

the applicant — by telling the applicant orally that the visa has been granted; or

*insert*

the applicant:

- (A) by telling the applicant orally that the visa has been granted; or
- (B) by notifying the applicant in writing by means of electronic communication to the last address given to the Minister for electronic communication that the visa has been granted; or
- (C) by giving the applicant evidence of the visa.

**[44] After paragraph 2.16 (1) (c)**

*insert*

- (ca) by notifying the applicant in writing, by means of electronic communication, to the last address given to the Minister for electronic communication; or



---

**[45] After regulation 2.16**

**2.16A Time of receipt of electronic communication**

The time of receipt of an electronic communication mentioned in sub-subparagraph 2.16 (1) (a) (ii) (B) or paragraph 2.16 (1) (ca) is the end of the day on which the electronic communication is transmitted.

**[46] Subregulations 2.18 (2), (2A) and (3)**

*substitute*

- (2) If the application is an Internet application:
  - (a) the application must be in accordance with approved form 1085E; and
  - (b) the applicant must be in Australia at the time of making the application; and
  - (c) the fee payable on an application is \$60.
- (2A) If the application is not an Internet application, and the applicant is in Australia at the time of making the application:
  - (a) the application must:
    - (i) be in accordance with approved form 1085; or
    - (ii) be made orally, by attending an office of Immigration in Australia and presenting a valid passport; or
    - (iii) be made in writing:
      - (A) delivered to an office of Immigration in Australia; and
      - (B) accompanied by presentation of a valid passport; and
  - (b) the fee payable on an application is \$60.
- (3) If the application is not an Internet application, and the applicant is not in Australia at the time of making the application:

- (a) the application must be in accordance with approved form 1085; and
- (b) the fee payable on application is \$70.

**[47] Paragraph 2.21B (1) (a)**

*substitute*

- (a) a valid application for a visa on form 157P, form 601, form 601E or form 1182; or

**[48] Subregulation 2.22 (2)**

*substitute*

- (2) A reference in subregulation (1) to an application does not include the following:
  - (a) an oral application, or an oral communication that purports to be an oral application;
  - (b) an Internet application, or an electronic communication that purports to be an Internet application;
  - (c) an application for a Graduate — Skilled (Temporary) (Class UQ) visa;
  - (d) an application for a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
  - (e) an application for a Skilled — Australian-sponsored Overseas Student (Class DE) visa.

**[49] Paragraph 2.25A (1) (b)**

*omit*

that is a country

*insert*

(whether Australia or a foreign country)

[50] **After paragraph 2.25A (1) (b)**

*insert*

*Note foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901*.

[51] **Regulation 2.26A, heading**

*substitute*

**2.26A Prescribed qualifications and number of points for skilled permanent visas**

[52] **Subregulations 2.26A (1) and (2)**

*substitute*

- (1) This regulation applies to an applicant for any of the following visas:
  - (a) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
  - (b) a Skilled — Independent (Migrant) (Class BN) visa;
  - (c) a Skilled — New Zealand Citizen (Residence) (Class DB) visa;
  - (d) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
  - (e) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa.
- (2) For subsection 93 (1) of the Act (which deals with determination of an applicant's points score):
  - (a) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7 or 8 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of:
    - (i) a Subclass 136 (Skilled — Independent) visa; or
    - (ii) a Subclass 137 (Skilled — State/Territory-nominated Independent) visa; or

- (iii) a Subclass 861 (Skilled — Onshore Independent New Zealand Citizen) visa; or
- (iv) a Subclass 880 (Skilled — Independent Overseas Student) visa; and
- (b) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7, 8 or 9 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of:
  - (i) a Subclass 138 (Skilled — Australian-sponsored) visa; or
  - (ii) a Subclass 862 (Skilled — Onshore Australian-sponsored New Zealand Citizen) visa; or
  - (iii) a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa.

**[53] Regulation 2.27A, heading**

*substitute*

**2.27A Combination of scores — points system:  
applicants for skilled permanent visas**

**[54] Paragraph 2.27A (1) (a)**

*omit*

(Class BQ) visa,

*insert*

(Class BQ) or Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa,

**[55] Paragraph 2.27B (1) (c)**

*substitute*

- (c) the person is an applicant for:
  - (i) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; or

- (ii) a Skilled — Independent (Migrant) (Class BN) visa; or
- (iii) a Skilled — New Zealand Citizen (Residence) (Class DB) visa; or
- (iv) a Skilled — Independent Overseas Student (Residence) (Class DD) visa; or
- (v) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa; and

**[56] Paragraph 2.40 (1) (n)**

*substitute*

- (n) transit passengers who belong to a class of persons specified in a Gazette Notice for the purposes of this paragraph;

**[57] Paragraph 2.43 (1) (e)**

*after*

(Class UD) visa

*insert*

, or a Long Stay (Visitor) (Class TN) visa granted as a result of the applicant satisfying the criteria in clause 686.212

**[58] Paragraph 2.43 (1) (f)**

*substitute*

- (f) in the case of:
  - (i) the holder of an Electronic Travel Authority (Class UD) visa who is under the age of 18 years and is not accompanied by his or her parent or guardian; or
  - (ii) the holder of a Long Stay (Visitor) (Class TN) visa granted as a result of the applicant satisfying the criteria in clause 686.212, who is under the age of 18 years and is not accompanied by his or her parent or guardian;

that the holder of that visa does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's proposed visit in Australia;

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

*omit*

1 July 2001

*insert*

1 July 2003

**Part 1.2 Amendments of Schedule 1**

**[60] Subparagraph 1114A (2) (a) (i)**

*omit*

2.08CA,

*insert*

2.08CA or 2.08CB,

**[61] Subitem 1128 (1)**

*substitute*

(1) Form:

(a) If the application is an Internet application: 1085E

(b) In any other case: 1085 (unless the application is in accordance with subparagraph (3) (a) (iii), in which case no form is required).

**[62] Subitem 1128 (3)**

*substitute*

(3) Other:

- 
- (a) For an application (not being an Internet application):
    - (i) the application may be made in or outside Australia, but not in immigration clearance; and
    - (ii) the applicant must be in Australia to make an application in Australia; and
    - (iii) an application made in Australia may be:
      - (A) an oral application; or
      - (B) an application in writing, otherwise than in accordance with form 1085;  
if accompanied by presentation of a valid passport.
  - (b) For an Internet application the applicant must be in Australia, but not in immigration clearance.
  - (c) Application by a person who is included in the passport of another applicant for a Return (Residence) (Class BB) visa may be made at the same time and place as, and combined with, the application by that other applicant.

**[63] After item 1128B**

*insert*

**1128BA. Skilled — Australian-sponsored Overseas Student (Residence) (Class DE)**

- (1) Form: 47SK.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$1,670
  - (b) Second instalment (payable before grant of visa): 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 must be accompanied by satisfactory evidence that:
  - (i) during the 3 months immediately before the day on which the application is made, the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
    - (A) a Medical Officer of the Commonwealth;
    - (B) a medical practitioner approved by the Minister for the purposes of this sub-subparagraph;
    - (C) a medical practitioner employed by an organisation approved by the Minister for the purposes of this sub-subparagraph; and
  - (ii) during the 12 months immediately before the day on which the application is made, the Australian Federal Police have completed a check of criminal records in relation to the applicant.
- (d) Applicant must be:
  - (i) the holder of a Bridging A (Class WA) visa granted because the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa; or
  - (ii) the holder of a Bridging B (Class WB) visa granted because the applicant met the requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa; or
  - (iii) a person to whom paragraph (e) applies.



- 
- (e) This paragraph applies to an applicant who is the holder of a substantive visa other than:
- (i) a Subclass 560 (Student) visa granted to:
    - (A) the applicant as a person who satisfied the primary criteria for that visa (the *primary person*) in relation to undertaking:
      - (I) a registered English language course or an ELICOS; or
      - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
      - (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or
      - (IV) a non-award course; or
    - (B) the applicant as a member of the family unit of the primary person; or
  - (ii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Masters and Doctorate Sector) visa granted to:
    - (A) the applicant as a person who satisfied the primary criteria for the visa (the *primary person*) in relation to undertaking a course mentioned in sub-sub-subparagraph (i) (A) (II) or (III); or
    - (B) the applicant as a member of the family unit of the primary person; or

- (iii) a Subclass 570 (Independent ELICOS Sector) visa; or
  - (iv) a Subclass 571 (Schools Sector) visa; or
  - (v) a Subclass 575 (Non-award Foundation/ Other Sector) visa; or
  - (vi) a Subclass 576 (AusAID or Defence Sector) visa.
- (f) If the applicant is the holder of:
- (i) a Bridging A (Class WA) visa or Bridging B (Class WB) visa; or
  - (ii) a substantive visa that is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (e) —  
the applicant must have been, at some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (e).
- (g) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (h) Application must be made by posting the application (with the correct pre-paid postage) to the post office box address approved in writing by the Minister.
- (i) Applicant seeking to satisfy the primary criteria or the applicant's spouse (if the spouse has made a combined application with the applicant) must be a person to whom paragraph (j) applies.
- (j) This paragraph applies to a person (the *former overseas student*) who:
- (i) is less than 45 years of age; and
  - (ii) if the former overseas student is seeking to meet the criteria for the grant of a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa — nominates in his or her application a skilled occupation for which at least 50 points are

- 
- specified by Gazette Notice as available;  
and
- (iii) if the former overseas student is seeking to meet the criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa — nominates a skilled occupation in his or her application;  
and
  - (iv) gives with the application satisfactory evidence that a relevant assessing authority has assessed the skills of the former overseas student as suitable for his or her nominated skilled occupation; and
  - (v) gives with the application satisfactory evidence that:
    - (A) the former overseas student has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification for award by an Australian educational institution as a result of at least 1 year of full-time study at that institution while the applicant was present in Australia;  
and
    - (B) all instruction for that award was conducted in English.
  - (k) Application must be accompanied by a properly completed sponsorship form by a person who is the sponsor of the applicant.
  - (l) Application must be accompanied by satisfactory evidence that the sponsor:
    - (i) has turned 18; and
    - (ii) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
    - (iii) is a person in respect of whom the applicant seeking to meet the primary criteria has one of the following relationships:

- (A) a parent;
  - (B) a child, or adoptive child, or step-child who is not a dependent child of the sponsor;
  - (C) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
  - (D) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
  - (E) if the applicant is seeking to satisfy the primary criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa — a grandchild or first cousin.
- (m) Application by applicant seeking to satisfy the criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa must be accompanied by satisfactory evidence that the applicant's sponsor:
- (i) is resident in an area specified by Gazette Notice as a designated area for item 6701 of Schedule 6; and
  - (ii) was resident in at least 1 designated area throughout the period of 12 months immediately before the day on which the application is made (except for short absences for the purposes of recreation or business).
- (n) Application must be accompanied by a properly completed assurance of support in relation to the applicant.
- (o) Application must be accompanied by:
- (i) satisfactory evidence that the person who has given the assurance of support (the *supporting person*) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and

- 
- (ii) copies of the supporting person's tax assessment notices for the 2 years occurring immediately before the application is made, certified as being true copies by a person mentioned in subparagraph 2.13 (5) (b) (i), (ii) or (iii); and
  - (iii) satisfactory evidence of the supporting person's current employment.
- (p) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant in respect of a course of study or training for which the applicant is or was provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency:
- (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or
  - (ii) the applicant:
    - (A) has ceased, completed, withdrawn from, or been excluded from:
      - (I) the course of study or training to which the visa relates or related; or
      - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
    - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.

(q) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

881 (Skilled — Australian-sponsored Overseas Student)

882 (Skilled — Designated Area-sponsored Overseas Student)

(5) In this item:

*completed*, in relation to a degree, diploma or trade qualification, includes having met the requirements for its award.

*degree* and *diploma* have the meanings given in subregulation 2.26A (6).

*trade qualification* has the meaning given in subregulation 2.26A (6).

*Note* For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

**[64] After item 1128C**

*insert*

**1128CA. Skilled — Independent Overseas Student (Residence) (Class DD)**

(1) Form: 47SK.

(2) Visa application charge:

(a) First instalment (payable at the time application is made): \$1,670

(b) Second instalment (payable before grant of visa): 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 must be made by posting the application (with the correct pre-paid postage) to the post office box address approved in writing by the Minister.
  - (d) Application must be accompanied by satisfactory evidence that:
    - (i) during the 3 months immediately before the day on which the application is made, the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
      - (A) a Medical Officer of the Commonwealth;
      - (B) a medical practitioner approved by the Minister for the purposes of this sub-subparagraph;
      - (C) a medical practitioner employed by an organisation approved by the Minister for the purposes of this sub-subparagraph; and
    - (ii) during the 12 months immediately before the day on which the application is made, the Australian Federal Police have completed a check of criminal records in relation to the applicant.
  - (e) Applicant must be:
    - (i) the holder of a Bridging A (Class WA) visa granted because the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa; or
    - (ii) the holder of a Bridging B (Class WB) visa granted because the applicant met the

- requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa; or
- (iii) a person to whom paragraph (f) applies.
- (f) This paragraph applies to an applicant who is the holder of a substantive visa other than:
- (i) a Subclass 560 (Student) visa granted to:
- (A) the applicant as a person who satisfied the primary criteria for that visa (the *primary person*) in relation to undertaking:
- (I) a registered English language course or an ELICOS; or
- (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
- (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or
- (IV) a non-award course; or
- (B) the applicant as a member of the family unit of the primary person; or
- (ii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Masters and Doctorate Sector) visa granted to:
- (A) the applicant as a person who satisfied the primary criteria for the visa (the *primary person*) in relation



- 
- to undertaking a course mentioned in sub-sub-subparagraph (i) (A) (II) or (III); or
- (B) the applicant as a member of the family unit of the primary person; or
- (iii) a Subclass 570 (Independent ELICOS Sector) visa; or
- (iv) a Subclass 571 (Schools Sector) visa; or
- (v) a Subclass 575 (Non-award Foundation/Other Sector) visa; or
- (vi) a Subclass 576 (AusAID or Defence Sector) visa.
- (g) If the applicant is the holder of:
- (i) a Bridging A (Class WA) visa or Bridging B (Class WB) visa; or
- (ii) a substantive visa that is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (f) —  
the applicant must have been, at some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (f).
- (h) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (i) Applicant seeking to satisfy the primary criteria must be less than 45 years of age.
- (j) Applicant seeking to satisfy the primary criteria must, in his or her application:
- (i) if the applicant has, in the 6 months immediately before the day on which the application is made, completed a doctoral degree, in which all instruction was conducted in English, for award by an Australian educational institution as the result of at least 1 year of full-time study in Australia at that institution — nominate a

- skilled occupation for which at least 50 points are specified by Gazette Notice as available; or
- (ii) in any other case — nominate a skilled occupation for which 60 points are specified by Gazette Notice as available.
- (k) Application by an applicant seeking to satisfy the primary criteria must be accompanied by satisfactory evidence that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
- (l) Application by an applicant seeking to satisfy the primary criteria must be accompanied by satisfactory evidence that:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification for award by an Australian educational institution as a result of at least 1 year of full-time study at that institution while the applicant was present in Australia; and
  - (ii) all instruction for that award was conducted in English.
- (m) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant in respect of a course of study or training for which the applicant is or was provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency:
- (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or
  - (ii) the applicant:

- 
- (A) has ceased, completed, withdrawn from, or been excluded from:
- (I) the course of study or training to which the visa relates or related; or
  - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
- (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
- (n) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Independent Overseas Student (Residence) (Class DD) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:  
880 (Skilled — Independent Overseas Student)
- (5) In this item:
- completed*, in relation to a degree, diploma or trade qualification, includes having met the requirements for its award.
- degree* and *diploma* have the meanings given in subregulation 2.26A (6).
- trade qualification* has the meaning given in subregulation 2.26A (6).
- Note* For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

**[65] After item 1212**

*insert*

**1212A. Graduate — Skilled (Temporary) (Class UQ)**

- (1) Form: 1182.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$155
  - (b) Second instalment (payable before grant of visa): 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) Applicant must state in the application an intention to make a valid application for a Skilled — Independent Overseas Student (Class DD) or Skilled — Australian-sponsored Overseas Student (Class DE) visa.
  - (d) Applicant must be the holder of a substantive visa other than:
    - (i) a Subclass 497 (Graduate — Skilled) visa;  
or
    - (ii) a Subclass 560 (Student) visa granted to:
      - (A) the applicant as a person who satisfied the primary criteria for that visa (the *primary person*) in relation to undertaking:
        - (I) a registered English language course or an ELICOS; or
        - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a

- 
- foreign country or a multilateral agency; or
- (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or
- (IV) a non-award course; or
- (B) the applicant as a member of the family unit of the primary person; or
- (iii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Masters and Doctorate Sector) visa granted to:
- (A) the applicant as a person who satisfied the primary criteria for the visa (the *primary person*) in relation to undertaking a course mentioned in sub-sub-subparagraph (ii) (A) (II) or (III); or
- (B) the applicant as a member of the family unit of the primary person; or
- (iv) a Subclass 570 (Independent ELICOS Sector) visa; or
- (v) a Subclass 571 (Schools Sector) visa; or
- (vi) a Subclass 575 (Non-award Foundation/ Other Sector) visa; or
- (vii) a Subclass 576 (AusAID or Defence Sector) visa.
- (e) If the substantive visa held by the applicant for paragraph (d) is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in that paragraph, applicant must have been, at some time in the 6 months immediately before making the application, the holder of a visa of that kind.

- (f) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (g) Applicant seeking to satisfy the primary criteria must nominate a skilled occupation in his or her application.
- (h) Application by an applicant seeking to satisfy the primary criteria must be accompanied by satisfactory evidence that:
  - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification that is for award by an Australian educational institution as a result of at least 1 year of full-time study at that institution while the applicant was present in Australia; and
  - (ii) all instruction for that award was conducted in English; and
  - (iii) the applicant holds, or has completed, a degree, diploma or trade qualification that is appropriate for the nominated skilled occupation; and
  - (iv) the applicant has applied to a relevant assessing authority for an assessment of the suitability of his or her skills for the nominated skilled occupation.
- (i) Applicant seeking to satisfy the primary criteria must be less than 45 years of age.
- (j) Application must be made by posting the application (with the correct pre-paid postage) to the post office box address approved in writing by the Minister.
- (k) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A, or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant in respect of a course of study or training for which the applicant is or was provided

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financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency:

- (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or
  - (ii) the applicant:
    - (A) has ceased, completed, withdrawn from, or been excluded from:
      - (I) the course of study or training to which the visa relates or related; or
      - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
    - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
- (1) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Graduate — Skilled (Temporary) (Class UQ) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:  
497 Graduate — Skilled
- (5) In this item:  
**completed**, in relation to a degree, diploma or trade qualification, includes having met the requirements for its award.

*degree* and *diploma* have the meanings given in subregulation 2.26A (6).

*trade qualification* has the meaning given in subregulation 2.26A (6).

*Note* For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

**[66] Subitem 1214 (1)**

*substitute*

(1) Form:

- (a) If the application (not being an Internet application) is made outside Australia: 48 or 48R.
- (b) If the application (not being an Internet application) is made in Australia: 601 (unless the application is an oral application in accordance with paragraph (3) (aa), in which case no form is required).
- (c) If the application is an Internet application: 601E.

**[67] Subitem 1214 (3)**

*substitute*

(3) Other:

- (a) Internet application may be made if, and only if, the applicant:
  - (i) is in Australia (but not in immigration clearance); and
  - (ii) is the holder of:
    - (A) a Subclass 676 (Tourist (Short Stay)) visa; or
    - (B) a Subclass 976 (Electronic Travel Authority (Visitor)) visa.
- (b) Oral application may be made if, and only if, the applicant:



- (i) is in Australia (but not in immigration clearance); and
- (ii) is the holder of:
  - (A) a Long Stay (Visitor) (Class TN) visa; or
  - (B) a Short Stay (Visitor) (Class TR) visa.
- (c) Application (not being an Internet or oral application) may be made in or outside Australia, but not in immigration clearance.
- (d) Application (not being an Internet or oral 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.
- (e) Internet application by a person included in the passport of another person may be made at the same time as, and combined with, the application by that person.

**[68] Subparagraph 1218 (1) (a) (ii)**

*omit*

48 or 48R.

*insert*

48, 48N or 48R.

**[69] Paragraphs 1222 (1) (a) and (b)**

*substitute*

- (a) In the case of an application by an applicant who:
  - (i) is outside Australia; and
  - (ii) seeks to satisfy the primary criteria; and
  - (iii) is included in a class of persons specified by Gazette Notice for the purposes of this subparagraph: 157A or 157E.

- (b) In the case of an application made in Australia by an applicant who holds a student visa that is subject to condition 8101, and who seeks a student visa that is not subject to condition 8101: 157P.
- (c) In the case of an application made in Australia, by:
  - (i) an applicant who holds a Subclass 560 or 562 visa that is subject to condition 8206 and who seeks a student visa that is not subject to condition 8206; or
  - (ii) an applicant who holds a Subclass 570, 571, 572, 573, 574, 575 or 576 visa that is subject to condition 8206 and who seeks a student visa that is for the same education sector and that is not subject to condition 8206;  
157C.
- (d) In any other case: 157A.

**[70] Sub-subparagraph 1222 (2) (a) (i) (B)**

*omit*

**[71] Sub-subparagraph 1222 (2) (a) (i) (E)**

*substitute*

- (E) is a member of the family unit of an AusAID student who has not, since becoming an AusAID student, applied for a visa other than an AusAID student visa within the meaning of regulation 1.04A; or
- (F) is a Defence student to whom subparagraph 1.04B (b) (ii) applies; or
- (G) is a member of the family unit of a Defence student who has not, since becoming a Defence student, applied for a visa other than a student visa: Nil.

**[72] Paragraph 1222 (3) (c)**

*substitute*

- (c) If the application is made on form 157A, 157C or 157E and the applicant seeks to satisfy the primary criteria, the application is accompanied by satisfactory evidence that:
- (i) the applicant is enrolled in a registered full-time course of study or training:
    - (A) of a type that has been gazetted under regulation 1.40A; and
    - (B) the provider of which is not a suspended education provider; or
  - (ii) the applicant has been offered a place in a registered full-time course of study or training:
    - (A) of a type that has been gazetted under regulation 1.40A; and
    - (B) the provider of which is not a suspended education provider; or
  - (iii) if the applicant is an AusAID student who meets the requirement in subparagraph 1.04A (3) (b) (ii), a Defence student who meets the requirement in subparagraph 1.04B (b) (ii) or an exchange student — the applicant is enrolled, or intends to enrol, in a full-time course of study or training the provider of which is not a suspended education provider; or
  - (iv) if:
    - (A) the application was made in Australia; and
    - (B) at the time of application, the applicant was the holder of a Subclass 560, 562 or 574 visa; and
    - (C) the applicant is seeking to remain in Australia during the marking of his or her post-graduate thesis —

in connection with a full-time course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a post-graduate thesis.

- (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a student visa (the *primary applicant*) may be made at the same time and place as, and combined with, the application by the primary applicant or the application by any other member of the family unit of the primary applicant.
- (e) A person claiming to be a member of the family unit of the primary applicant must be included by the primary applicant in the application or the information under subregulation 2.07AF (3) or (4), except if the applicant became such a member of the family unit after the decision to grant the student visa to the primary applicant was made.

**[73] Subitem 1222 (4)**

*substitute*

(4) Subclasses:

- 570 Independent ELICOS Sector
- 571 Schools Sector
- 572 Vocational Education and Training Sector
- 573 Higher Education Sector
- 574 Masters and Doctorate Sector
- 575 Non-award Foundation/Other Sector
- 576 AusAID or Defence Sector

**[74] Subitem 1301 (1)**

*omit*

157C, 157S, 157Y,

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*insert*

157A, 157C,

**[75] Subitem 1303 (1)**

*omit*

157S, 157Y,

*insert*

157A,

**[76] Subitem 1305 (1)**

*omit*

157S, 157Y,

*insert*

157A,

**Part 1.3 Amendments of Schedule 2**

**[77] After subclause 010.611 (3)**

*insert*

(3A) In the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211 (2) or (3) on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ), Skilled — Independent Overseas Student (Class DD) or Skilled — Australian-sponsored Overseas Student (Class DE) visa, 8501.

**[78] After clause 020.221**

*insert*

020.222 If the applicant meets the requirements of subclause 020.212 (2) or (3) on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ)

visa, the applicant wishes to leave and re-enter Australia because:

- (a) a close relative of the applicant is seriously ill, or has recently died, overseas; or
- (b) the applicant's Australian employer requires the applicant to travel overseas in the course of the applicant's employment.

*Note* *close relative* is defined in regulation 1.03.

**[79] After subclause 020.611 (3)**

*insert*

(3A) In the case of a visa granted to a person who meets the requirements of subclause 020.212 (2) or (3) on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ), Skilled — Independent Overseas Student (Class DD) or Skilled — Australian-sponsored Overseas Student (Class DE) visa, 8501.

**[80] Paragraph 155.511 (b)**

*substitute*

- (b) if:
  - (i) the visa is granted pursuant to an Internet application; and
  - (ii) the applicant met the requirements of clause 155.211 and subclause 155.212 (2) at the time of application;  
a period of 5 years from the date of grant; or
- (c) in any other case:
  - (i) a period of 5 years from the date of the grant; or
  - (ii) a shorter period determined by the Minister.

**[81] Clause 155.711**

*substitute*

155.711 No evidence need be given.

**[82] Clause 157.711**

*substitute*

157.711 No evidence need be given.

**[83] Paragraph 417.214 (b)**

*substitute*

- (b) the applicant is a person who holds a valid passport of a kind specified in a Gazette Notice made under paragraph 417.215 (a) or (b).

**[84] Clause 417.215**

*substitute*

417.215 The application is made:

- (a) if the applicant is a person who holds a valid passport of a kind specified in a Gazette Notice for the purposes of this paragraph — in any foreign country; or
- (b) if the applicant is a person who holds a valid passport of a kind specified in a Gazette Notice for the purposes of this paragraph — in the foreign country specified in the Notice for that kind of passport.

*Note* **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901*.

**[85] After paragraph 418.211 (c)**

*insert*

- (ca) the holder of a Subclass 497 (Graduate — Skilled) visa; or

**[86] Subparagraph 418.211 (d) (i)**

*omit*

paragraph (a) or (c); and

*insert*

paragraph (a), (c) or (ca); and

**[87] Subparagraph 418.230 (a) (iii)**

*omit*

subparagraph (i) or (ii); and

*insert*

subparagraph (i) or (ii); or

**[88] After subparagraph 418.230 (a) (iii)**

*insert*

(iv) a Subclass 497 (Graduate — Skilled) visa;  
and

**[89] Subparagraph 427.222 (b) (iii)**

*omit*

(6),

*insert*

(5),

**[90] Clause 442.611**

*omit*

conditions 8102 and 8202.

*insert*

condition 8102.



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**[91] Subclause 457.111 (1), definition of *key activity***

*omit*

**[92] After paragraph 457.211 (c)**

*insert*

(ca) the applicant is the holder of a Subclass 497 (Graduate — Skilled) visa; or

**[93] Subparagraph 457.211 (d) (i)**

*omit*

paragraph (a) or (c); and

*insert*

paragraph (a), (c) or (ca); and

**[94] Subclause 457.223 (1)**

*omit*

(6),

**[95] Subclauses 457.223 (4), (5) and (6)**

*substitute*

*Sponsorship by Australian businesses*

(4) The applicant meets the requirements of this subclause if:

(a) the activity in which the applicant proposes to be employed in Australia by a person (the *employer*) is the subject of an approved business nomination by the employer; and

(b) the employer is:

(i) a pre-qualified business sponsor; or

(ii) a standard business sponsor; and

- (c) the applicant is nominated, in accordance with approved form 1068, in relation to the activity by the employer; and
- (d) the applicant has personal attributes and an employment background that are relevant to, and consistent with, the nature of the activity to be performed; and
- (e) the applicant demonstrates, if so required by the Minister, that he or she has the skills necessary to perform the activity; and
- (f) the Minister is satisfied that:
  - (i) the applicant will be paid at the level specified in the nomination; and
  - (ii) that level will be at least the minimum salary level that applied at the time the nomination was made; and
- (g) if the employer is a standard business sponsor, the Minister is satisfied that the position to be filled by the applicant has not been created only for the purposes of securing the entry of the applicant to Australia.

*Sponsorship by overseas businesses*

- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant proposes to be employed in Australia by a person (the **employer**) who does not operate a business activity in Australia; and
  - (b) that activity is the subject of an approved business nomination by the employer; and
  - (c) the applicant is nominated, in accordance with approved form 1068, in relation to the activity by the employer; and
  - (d) the employer:
    - (i) has given undertakings in accordance with approved form 1067; and
    - (ii) is a person whom the Minister is satisfied (apart from not operating a business in Australia) would, on application, be likely

- to be approved as a standard business sponsor; and
- (e) the applicant demonstrates, if so required by the Minister, that he or she has the skills necessary to perform the activity; and
  - (f) the applicant has personal attributes and an employment background that are relevant to, and consistent with, the nature of the activity to be performed; and
  - (g) the Minister is satisfied that the position to be filled by the applicant has not been created only for the purposes of securing the entry of the applicant to Australia; and
  - (h) the Minister is satisfied that:
    - (i) the applicant will be paid at the level specified in the nomination; and
    - (ii) that level will be at least the minimum salary level that applied at the time the nomination was made; and
  - (i) the Minister is satisfied that the applicant has a genuine and realistic commitment to:
    - (i) establish, or assist in establishing, on behalf of the employer, a business activity in Australia with overseas connections; or
    - (ii) fulfil, or assist in fulfilling, contractual obligations of the employer;that will be of benefit to Australia.

**[96] After Part 461**

*insert*

**Subclass 497 Graduate — Skilled**

**497.1 Interpretation**

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

## **497.2 Primary criteria**

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

497.211 The applicant has complied substantially with the conditions to which the visa held by the applicant is subject.

*Note* The requirements for making a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa are set out in item 1212A of Schedule 1.

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

497.221 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

497.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.

497.223 The Minister is satisfied that the expressed intention of the applicant to make a valid application for a Skilled — Independent Overseas Student (Class DD) or Skilled — Australian-sponsored Overseas Student (Class DE) visa is genuine.

497.224 There is no evidence that the applicant will not be able to make a valid application for a Skilled — Independent Overseas Student (Class DD) or Skilled — Australian-sponsored Overseas Student (Class DE) visa.

## **497.3 Secondary criteria**

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

497.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 497.21 (the *primary applicant*) and:

- (a) the applicant has made a combined application with the primary applicant; and

- (b) the Minister has not decided to grant or refuse to grant a Graduate — Skilled (Temporary) (Class UQ) visa to the primary applicant.

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

- 497.321 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 497 visa.
- 497.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.
- 497.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**497.4 Circumstances applicable to grant**

- 497.411 The applicant must be in Australia at the time of grant.

**497.5 When visa is in effect**

- 497.511 Temporary visa permitting the holder to travel to, enter and remain in Australia for a period (not longer than 6 months after the date of grant of the visa) specified by the Minister for the purpose.

**497.6 Conditions**

- 497.611 If the applicant satisfies the primary criteria, condition 8501.
- 497.612 If the applicant satisfies the secondary criteria, conditions 8501 and 8522.

**497.7 Way of giving evidence**

- 497.711 Visa label affixed to a valid passport.

**[97] Parts 560, 562 and 563**

*substitute*

**Subclass 570 Independent ELICOS Sector**

**570.1 Interpretation**

*Note* *foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories. No interpretation provisions specific to this Part.

**570.2 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.

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

570.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
- (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);

- 
- (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);  
or
  - (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
  - (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the applicant was:
    - (i) a student visa; or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
    - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; and

- 
- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 570 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced an ELICOS.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 570 visa that is subject to condition 8206; and
  - (b) the application was made on form 157C; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the ELICOS for which the visa held was granted; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 571, 572, 573, 574, 575 or 576 visa that is subject to condition 8206; and
  - (b) the application was made on form 157A; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of



the course, or courses, of study for which the visa held was granted; and

- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

570.212 If the application is made in Australia, 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.

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

570.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.211 (4) or (5), the applicant satisfies the criteria in clauses 570.222 to 570.231.

(2) If, at the time of application, the applicant met the requirements of subclause 570.211 (4):

(a) the applicant continues to meet the requirements of paragraph 570.211 (4) (a); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 570.223 to 570.231.

(3) If, at the time of application, the applicant met the requirements of subclause 570.211 (5):

(a) the applicant continues to meet the requirements of paragraphs 570.211 (5) (a) and (d); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 570.222 to 570.231.

570.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment

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relating to the applicant undertaking a full-time ELICOS (*an acceptable ELICOS*):

- (a) that has been gazetted under regulation 1.40A; and
- (b) the provider of which is not a suspended education provider.

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable ELICOS.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable ELICOS.

570.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

- (a) evidence given in accordance with Schedule 5A in relation to:
  - (i) the applicant's English language proficiency for the purposes of the course; and
  - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
  - (iii) other requirements under Schedule 5A; and
- (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
- (c) any other relevant matter.

570.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and

- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

570.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

570.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 570.212.

570.227 If:

- (a) the application was made in Australia; and
- (b) the applicant is subject to assessment level 3, 4 or 5; and
- (c) at the time of application, the applicant met the requirements of clause 570.211:
  - (i) as the holder of a visa of one of the following classes:
    - (A) Border (Temporary) (Class TA);
    - (B) Business (Temporary) (Class TB);
    - (C) Cultural/Social (Temporary) (Class TE);
    - (D) Educational (Temporary) (Class TH);
    - (E) Electronic Travel Authority (Class UD);
    - (F) Expatriate (Temporary) (Class TJ);
    - (G) Family Relationship (Temporary) (Class TL);
    - (H) Interdependency (Temporary) (Class TM);
    - (I) Long Stay (Visitor) (Class TN);

- 
- (J) Medical Practitioner (Temporary) (Class UE);
  - (K) Retirement (Temporary) (Class TQ);
  - (L) Short Stay (Visitor) (Class TR);
  - (M) Supported Dependant (Temporary) (Class TW);
  - (N) Temporary Business Entry (Class UC);
  - (O) Working Holiday (Temporary) (Class TZ); or
  - (ii) as the holder of a special purpose visa; or
  - (iii) as the holder of a visa of one of the following subclasses:
    - (A) Subclass 303 (Emergency Temporary Visa Applicant);
    - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
  - (iv) as a person:
    - (A) who was not the holder of a substantive visa; and
    - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 570 visa.

570.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

570.229 If:

- (a) the application was made in Australia; and

- (b) the applicant is subject to assessment level 3, 4 or 5;

the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS taken as the holder of a Subclass 570 visa, does not exceed the applicable maximum period specified in clause 5A203, 5A206 or 5A209 of Schedule 5A.

**570.230 If:**

- (a) the application was made in Australia; and  
 (b) either:  
     (i) the applicant is the holder of a student visa that is subject to condition 8535; or  
     (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and  
 (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking an ELICOS.

- 570.231** The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

**570.3 Secondary criteria**

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

- 570.311** If the application is made outside Australia, the applicant is a member of the family unit of:  
 (a) a person who is the holder of a Subclass 560 or 562 visa; or

- 
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 570.21.
- 570.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
- (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
- (i) Subclass 303 (Emergency (Temporary Visa Applicant));

(ii) Subclass 427 (Domestic Worker (Temporary) — Executive).

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

- (a) the applicant does not hold a substantive visa; and
- (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 570.211 (3); and
- (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.

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

- (a) the applicant is the holder of a Subclass 560, 563 or 570 visa that is subject to condition 8101; and
- (b) the application was made on form 157P; and
- (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 570 visa; and
- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 570 visa mentioned in paragraph (c) has commenced an ELICOS.

570.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.

570.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant

the Subclass 570 visa to the primary applicant was made.

570.315 The applicant is not an exchange student.

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

570.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.312 (4), the applicant satisfies the criteria in clauses 570.322 to 570.331.

(2) If, at the time of application, the applicant met the requirements of subclause 570.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 570.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322; or

(ii) the applicant satisfies the criteria in clauses 570.322 to 570.331.

570.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory;  
or



- 
- (B) the government of a foreign country;  
or
  - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
    - (B) has been lawfully in Australia for 12 months or more; or
  - (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 570.21 and 570.22 and who meets one of the following:
    - (i) the primary person is subject to assessment level 1 or 2;
    - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
      - (A) the Commonwealth or the government of a State or Territory;  
or
      - (B) the government of a foreign country;  
or
      - (C) a multilateral agency;
    - (iii) the primary person:
      - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
      - (B) has been lawfully in Australia for 12 months or more.
- 570.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 570.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 570.325 If the application is made outside Australia and the applicant has previously been in Australia, the

applicant satisfies special return criteria 5001, 5002 and 5010.

- 570.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322; and
  - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
  - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 570.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 570.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 570.322; and
  - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 570.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 570.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
  - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 570.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.

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

#### **570.4 Circumstances applicable to grant**

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

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

#### **570.5 When visa is in effect**

570.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

#### **570.6 Conditions**

- 570.611 (1) If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
  - (b) subject to subclause (2), condition 8101; and
  - (c) subject to subclause (3), condition 8206; and
  - (d) if the applicant is a citizen of Iran, condition 8204; and
  - (e) subject to clause 570.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

(2) If the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 570.211 (4);  
or
- (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;

condition 8105.

(3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 570.211 (5) or (6); or
- (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.

570.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

570.613 (1) If the applicant (the *primary applicant*) is subject to assessment level 3, 4 or 5 and is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

570.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less, condition 8534 may be imposed.

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- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 570.615 (1) If the applicant (the *primary applicant*) is seeking to undertake an ELICOS that is, or ELICOS that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 570.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
    - (i) condition 8501; and
    - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
  - (b) if the applicant is a citizen of Iran, condition 8204; and
  - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
  - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivision 560.31 and 560.32; or
  - (b) the applicant was the holder of a Subclass 563 visa; or
  - (c) the applicant was:
    - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
    - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or

576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

570.617 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:

- (a) the application was made in Australia and, at the time of application, the applicant was the holder of a student visa that was subject to condition 8104;
- (b) the application was made in Australia and:
  - (i) the applicant was, at the time of application, a member of the family unit of a person who:
    - (A) was the holder of a Subclass 560 visa and was a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001; or

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (B) was the holder of a Subclass 570 visa and was subject to assessment level 1 or 2; and
    - (ii) the applicant met the requirement of paragraph 570.312 (4) (d);
  - (c) the application was made in Australia and:
    - (i) the applicant was, at the time of application, a member of the family unit of a person who:
      - (A) was the holder of a Subclass 560 visa and was not included in the class of persons specified by Gazette Notice for the purposes of sub-subparagraph (b) (i) (A); or
      - (B) was the holder of a Subclass 562 visa; or

- (C) was the holder of a Subclass 570 visa and was subject to assessment level 3, 4 or 5; and
- (ii) the applicant met the requirement of paragraph 570.312 (4) (d) in relation to an ELICOS that is paid for, wholly or in part, by:
  - (A) the Commonwealth; or
  - (B) the government of a State or Territory; or
  - (C) the government of a foreign country; or
  - (D) a multilateral agency.

(2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a), (b) and (c) applies, condition 8101.

## **570.7 Way of giving evidence**

570.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.

570.712 If evidence is given, to be given by visa label affixed to a valid passport.

## **Subclass 571 Schools Sector**

### **571.1 Interpretation**

571.111 In this Part:

*course of study*, means:

- (a) in relation to an exchange student — a full-time course of study under a secondary school student exchange program approved by the State or Territory education authority that administers the program; or
- (b) in any other case — a full-time registered course of study.

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*Note 1* **exchange student** is defined in regulation 1.03.

*Note 2* **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

## **571.2 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.

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

571.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

(a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiv) Supported Dependant (Temporary) (Class TW);



- (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);  
or
  - (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
  - (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the applicant was:
    - (i) a student visa; or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
    - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; and
  - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:

- (a) the applicant is the holder of a Subclass 560, 562 or 571 visa that is subject to condition 8101; and
- (b) the application was made on form 157P; and
- (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.

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

- (a) the applicant is the holder of a Subclass 560, 562 or 571 visa that is subject to condition 8206; and
- (b) the application was made on form 157C; and
- (c) except if the applicant is an exchange student, the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

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

- (a) the applicant is the holder of a Subclass 570, 572, 573, 575 or 576 visa that is subject to condition 8206; and
- (b) the application was made on form 157A; and
- (c) except if the applicant is an exchange student, the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

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571.212 If the application is made in Australia, 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.

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

571.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.211 (4) or (5), the applicant satisfies the criteria in clauses 571.222 to 571.231.

(2) If, at the time of application, the applicant met the requirements of subclause 571.211 (4):

(a) the applicant continues to meet the requirements of paragraph 571.211 (4) (a); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 571.223 to 571.231.

(3) If, at the time of application, the applicant met the requirements of subclause 571.211 (5):

(a) the applicant continues to meet the requirements of paragraphs 571.211 (5) (a) and (d); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 571.222 to 571.231.

571.222 (1) Except if:

(a) subclause (2) applies; or

(b) the application was made on form 157E; or

(c) the applicant is an exchange student;

the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a

suspended education provider (*an acceptable course*).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

(4) If the applicant is an exchange student, the applicant is enrolled in an acceptable course.

571.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

- (a) evidence given in accordance with Schedule 5A in relation to:
  - (i) the applicant's English language proficiency for the purposes of the course; and
  - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
  - (iii) other requirements under Schedule 5A; and
- (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
- (c) any other relevant matter.

571.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and

- 
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 571.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 571.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 571.212.
- 571.227 If:
- (a) the application was made in Australia; and
  - (b) the applicant is subject to assessment level 3, 4 or 5; and
  - (c) at the time of application, the applicant met the requirements of clause 571.211:
    - (i) as the holder of a visa of one of the following classes:
      - (A) Border (Temporary) (Class TA);
      - (B) Business (Temporary) (Class TB);
      - (C) Cultural/Social (Temporary) (Class TE);
      - (D) Educational (Temporary) (Class TH);
      - (E) Electronic Travel Authority (Class UD);
      - (F) Expatriate (Temporary) (Class TJ);
      - (G) Family Relationship (Temporary) (Class TL);
      - (H) Interdependency (Temporary) (Class TM);
      - (I) Long Stay (Visitor) (Class TN);
      - (J) Medical Practitioner (Temporary) (Class UE);
      - (K) Retirement (Temporary) (Class TQ);

- (L) Short Stay (Visitor) (Class TR);
- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
  - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
- (iv) as a person:
  - (A) who was not the holder of a substantive visa; and
  - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 571 visa.

571.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

571.229 If:

- (a) the application was made in Australia; and
- (b) either:
  - (i) the applicant is the holder of a student visa that is subject to condition 8535; or

- (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

- 571.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 571.231 If the applicant is subject to assessment level 3, 4 or 5, the Minister is satisfied that the applicant is of an age that is appropriate to the entry level for the applicant's principal course.

### **571.3 Secondary criteria**

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

- 571.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
  - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 571.21.
- 571.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xvi) Working Holiday (Temporary) (Class TZ);  
or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
  - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
  - (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 571.211 (3); and



- (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
  - (a) the applicant is the holder of a Subclass 560, 563 or 571 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 571 visa; and
  - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 571 visa mentioned in paragraph (c) has commenced a course of study.

571.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.

571.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 571 visa to the primary applicant was made.

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

571.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.312 (4), the applicant satisfies the criteria in clauses 571.322 to 571.331.

(2) If, at the time of application, the applicant met the requirements of subclause 571.312 (4):

- (a) the applicant continues to meet the requirements of paragraphs 571.312 (4) (a) and (c); and
- (b) either:
  - (i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322; or
  - (ii) the applicant satisfies the criteria in clauses 571.322 to 571.331.

571.322 The applicant is a member of the family unit of a person (the *primary person*):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
  - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
  - (A) the Commonwealth or the government of a State or Territory; or
  - (B) the government of a foreign country; or
  - (C) a multilateral agency;
- (iii) the primary person:
  - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
  - (B) has been lawfully in Australia for 12 months or more; or

- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 571.21 and 571.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
  - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
    - (A) the Commonwealth or the government of a State or Territory; or
    - (B) the government of a foreign country; or
    - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
    - (B) has been lawfully in Australia for 12 months or more.

571.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.

571.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

571.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

571.326 The Minister is satisfied that:

- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322; and
- (b) that primary person has adequate means to support himself or herself and the members of

- his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 571.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 571.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 571.322; and
- (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 571.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 571.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 571.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.
- 571.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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## **571.4 Circumstances applicable to grant**

- 571.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 571.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

## **571.5 When visa is in effect**

- 571.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
  - (b) otherwise — until a date specified by the Minister.

## **571.6 Conditions**

- 571.611
- (1) If the applicant satisfies the primary criteria:
    - (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
    - (b) subject to subclause (2), condition 8101; and
    - (c) subject to subclause (3), condition 8206; and
    - (d) if the applicant is a citizen of Iran, condition 8204; and
    - (e) subject to clause 571.612, any 1 or more of conditions 8303, 8523, 8534 and 8535 may be imposed.
  - (2) If the application was made in Australia and, at the time of application, the applicant:
    - (a) met the requirements of subclause 571.211 (4); or
    - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;

condition 8105.

(3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 571.211 (5) or (6); or
- (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.

571.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

- 571.613 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
    - (i) condition 8501; and
    - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
  - (b) if the applicant is a citizen of Iran, condition 8204; and
  - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
  - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
  - (b) the applicant was the holder of a Subclass 563 visa; or
  - (c) the applicant was:

- 
- (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
- (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.
- 571.614 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:
- (a) the application was made in Australia and, at the time of application, the applicant was the holder of a student visa that was subject to condition 8104;
- (b) the application was made in Australia and:
- (i) the applicant was, at the time of application, a member of the family unit of a person who was the holder of a Subclass 560, 562 or 571 visa; and
- (ii) the applicant met the requirement of paragraph 571.312 (4) (d).
- (2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a) and (b) applies, condition 8101.

### **571.7 Way of giving evidence**

- 571.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.
- 571.712 If evidence is given, to be given by visa label affixed to a valid passport.

## **Subclass 572 Vocational Education and Training Sector**

## **572.1 Interpretation**

572.111 In this Part:

*course of study* means a full-time registered course of study.

*Note foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

## **572.2 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.

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

572.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

(a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);



- 
- (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);  
or
  - (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
  - (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
    - (iii) Subclass 497 (Graduate — Skilled).
  - (3) An applicant meets the requirements of this subclause if:
    - (a) the applicant is not the holder of a substantive visa; and
    - (b) the last substantive visa held by the applicant was:
      - (i) a student visa; or
      - (ii) a special purpose visa; or
      - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
      - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
      - (v) a Subclass 497 (Graduate — Skilled) visa; and

- 
- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 572 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 572 visa that is subject to condition 8206; and
  - (b) the application was made on form 157C; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 573, 574, 575 or 576 visa that is subject to condition 8206; and
  - (b) the application was made on form 157A; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education

provider of a course of study for which the visa held was granted; and

- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

572.212 If the application is made in Australia, 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.

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

572.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.211 (4) or (5), the applicant satisfies the criteria in clauses 572.222 to 572.230.

(2) If, at the time of application, the applicant met the requirements of subclause 572.211 (4):

(a) the applicant continues to meet the requirements of paragraph 572.211 (4) (a); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 572.223 to 572.230.

(3) If, at the time of application, the applicant met the requirements of subclause 572.211 (5):

(a) the applicant continues to meet the requirements of paragraphs 572.211 (5) (a) and (d); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 572.222 to 572.230.

572.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment

relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

572.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

(a) evidence given in accordance with Schedule 5A in relation to:

(i) the applicant's English language proficiency for the purposes of the course; and

(ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and

(iii) other requirements under Schedule 5A; and

(b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(c) any other relevant matter.

572.224 The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and

(b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and

(c) if the applicant is applying outside Australia and the applicant has previously been in Australia,

satisfies special return criteria 5001, 5002 and 5010.

- 572.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 572.212.
- 572.227 If:
- (a) the application was made in Australia; and
  - (b) the applicant is subject to assessment level 3, 4 or 5; and
  - (c) at the time of application, the applicant met the requirements of clause 572.211:
    - (i) as the holder of a visa of one of the following classes:
      - (A) Border (Temporary) (Class TA);
      - (B) Business (Temporary) (Class TB);
      - (C) Cultural/Social (Temporary) (Class TE);
      - (D) Educational (Temporary) (Class TH);
      - (E) Electronic Travel Authority (Class UD);
      - (F) Expatriate (Temporary) (Class TJ);
      - (G) Family Relationship (Temporary) (Class TL);
      - (H) Interdependency (Temporary) (Class TM);
      - (I) Long Stay (Visitor) (Class TN);
      - (J) Medical Practitioner (Temporary) (Class UE);
      - (K) Retirement (Temporary) (Class TQ);
      - (L) Short Stay (Visitor) (Class TR);

- (M) Supported Dependant (Temporary)  
(Class TW);
- (N) Temporary Business Entry  
(Class UC);
- (O) Working Holiday (Temporary)  
(Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
  - (A) Subclass 303 (Emergency  
(Temporary Visa Applicant));
  - (B) Subclass 427 (Domestic Worker  
(Temporary) — Executive);
  - (C) Subclass 497 (Graduate — Skilled)  
visa; or
- (iv) as a person:
  - (A) who was not the holder of a  
substantive visa; and
  - (B) who, immediately before ceasing to  
hold a substantive visa, was the  
holder of a visa mentioned in  
subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 572 visa.

572.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

572.229 If:

- (a) the application was made in Australia; and
- (b) either:

- (i) the applicant is the holder of a student visa that is subject to condition 8535; or
  - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

572.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

### **572.3 Secondary criteria**

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

572.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 572.21.

572.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes:
  - (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);

- 
- (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
  - (c) a special purpose visa; or
  - (d) a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
    - (iii) Subclass 497 (Graduate — Skilled) visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 572.211 (3); and



- 
- (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 572 visa that is subject to condition 8101; and
- (b) the application was made on form 157P; and
- (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 572 visa; and
- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 572 visa mentioned in paragraph (c) has commenced a course of study.
- 572.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.
- 572.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 572 visa to the primary applicant was made.
- 572.315 The applicant is not an exchange student.
- 572.32 Criteria to be satisfied at time of decision**
- 572.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.312 (4), the applicant satisfies the criteria in clauses 572.322 to 572.331.

(2) If, at the time of application, the applicant met the requirements of subclause 572.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 572.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322; or

(ii) the applicant satisfies the criteria in clauses 572.322 to 572.331.

572.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory;  
or

(B) the government of a foreign country;  
or

(C) a multilateral agency;

(iii) the primary person:

(A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or

(B) has been lawfully in Australia for 12 months or more; or

- 
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 572.21 and 572.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
  - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
    - (A) the Commonwealth or the government of a State or Territory; or
    - (B) the government of a foreign country; or
    - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
    - (B) has been lawfully in Australia for 12 months or more.
- 572.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 572.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 572.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 572.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322; and
  - (b) that primary person has adequate means to support himself or herself and the members of

- 
- his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 572.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 572.322; and
- (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 572.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 572.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 572.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.
- 572.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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**572.4 Circumstances applicable to grant**

- 572.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 572.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

**572.5 When visa is in effect**

- 572.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
  - (b) otherwise — until a date specified by the Minister.

**572.6 Conditions**

- 572.611 (1) If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
  - (b) subject to subclause (2), condition 8101; and
  - (c) subject to subclause (3), condition 8206; and
  - (d) if the applicant is a citizen of Iran, condition 8204; and
  - (e) subject to clause 572.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- (2) If the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 572.211 (4); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;

condition 8105.

(3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 572.211 (5) or (6); or
- (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.

572.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

572.613 (1) If the applicant (the *primary applicant*) is subject to assessment level 3, 4 or 5 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

572.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

572.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

- 
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 572.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
    - (i) condition 8501; and
    - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
  - (b) if the applicant is a citizen of Iran, condition 8204; and
  - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
  - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
  - (b) the applicant was the holder of a Subclass 563 visa; or
  - (c) the applicant was:
    - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
    - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.
- 572.617 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:
- (a) the application was made in Australia and, at the time of application, the applicant was the holder

of a student visa that was subject to condition 8104;

- (b) the application was made in Australia and:
- (i) the applicant was, at the time of application, a member of the family unit of a person who was the holder of a Subclass 560, 562 or 572 visa; and
  - (ii) the applicant met the requirement of paragraph 572.312 (4) (d).

(2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a) and (b) applies, condition 8101.

## **572.7 Way of giving evidence**

572.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.

572.712 If evidence is given, to be given by visa label affixed to a valid passport.

## **Subclass 573 Higher Education Sector**

### **573.1 Interpretation**

573.111 In this Part:

*course of study* means a full-time registered course of study.

*Note foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

### **573.2 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.



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

- 573.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
- (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or
- (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
- (i) Subclass 303 (Emergency (Temporary Visa Applicant));

- 
- (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
  - (iii) Subclass 497 (Graduate — Skilled) visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the applicant was:
    - (i) a student visa; or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
    - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
    - (v) a Subclass 497 (Graduate — Skilled) visa; and
  - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 573 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (5) An applicant meets the requirements of this subclause if:

- (a) the applicant is the holder of a Subclass 560, 562 or 573 visa that is subject to condition 8206; and
  - (b) the application was made on form 157C; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 574, 575 or 576 visa that is subject to condition 8206; and
  - (b) the application was made on form 157A; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

573.212 If the application is made in Australia, 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.

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

573.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.211 (4) or (5), the applicant satisfies the criteria in clauses 573.222 to 573.230.

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- (2) If, at the time of application, the applicant met the requirements of subclause 573.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 573.211 (4) (a); and
  - (b) either:
    - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
    - (ii) the applicant satisfies the criteria in clauses 573.223 to 573.230.
- (3) If, at the time of application, the applicant met the requirements of subclause 573.211 (5):
- (a) the applicant continues to meet the requirements of paragraphs 573.211 (5) (a) and (d); and
  - (b) either:
    - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
    - (ii) the applicant satisfies the criteria in clauses 573.222 to 573.230.
- 573.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 573.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (a) evidence given in accordance with Schedule 5A in relation to:

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- (i) the applicant's English language proficiency for the purposes of the course; and
  - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
  - (iii) other requirements under Schedule 5A; and
- (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
  - (c) any other relevant matter.
- 573.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
  - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
  - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 573.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 573.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 573.212.
- 573.227 If:
- (a) the application was made in Australia; and
  - (b) the applicant is subject to assessment level 3, 4 or 5; and
  - (c) at the time of application, the applicant met the requirements of clause 573.211:

- (i) as the holder of a visa of one of the following classes:
  - (A) Border (Temporary) (Class TA);
  - (B) Business (Temporary) (Class TB);
  - (C) Cultural/Social (Temporary) (Class TE);
  - (D) Educational (Temporary) (Class TH);
  - (E) Electronic Travel Authority (Class UD);
  - (F) Expatriate (Temporary) (Class TJ);
  - (G) Family Relationship (Temporary) (Class TL);
  - (H) Interdependency (Temporary) (Class TM);
  - (I) Long Stay (Visitor) (Class TN);
  - (J) Medical Practitioner (Temporary) (Class UE);
  - (K) Retirement (Temporary) (Class TQ);
  - (L) Short Stay (Visitor) (Class TR);
  - (M) Supported Dependant (Temporary) (Class TW);
  - (N) Temporary Business Entry (Class UC);
  - (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
  - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
  - (C) Subclass 497 (Graduate — Skilled) visa; or
- (iv) as a person:

- (A) who was not the holder of a substantive visa; and
- (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 573 visa.

573.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

573.229 If:

- (a) the application was made in Australia; and
- (b) either:
  - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
  - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

573.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

### 573.3 Secondary criteria

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

573.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 573.21.

573.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes:
  - (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);



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- (xvi) Working Holiday (Temporary) (Class TZ);  
or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
- (i) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
  - (iii) Subclass 497 (Graduate — Skilled) visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 573.211 (3); and
  - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 573 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 573 visa; and
  - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 573 visa mentioned in paragraph (c) has commenced a course of study.

573.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.

573.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 573 visa to the primary applicant was made.

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

573.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.312 (4), the applicant satisfies the criteria in clauses 573.322 to 573.331.

(2) If, at the time of application, the applicant met the requirements of subclause 573.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 573.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322; or

(ii) the applicant satisfies the criteria in clauses 573.322 to 573.331.

573.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of

Part 560 as it read immediately before  
1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
  - (A) the Commonwealth or the government of a State or Territory;  
or
  - (B) the government of a foreign country;  
or
  - (C) a multilateral agency;
- (iii) the primary person:
  - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
  - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 573.21 and 573.22 and who meets one of the following:
  - (i) the primary person is subject to assessment level 1 or 2;
  - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
    - (A) the Commonwealth or the government of a State or Territory;  
or
    - (B) the government of a foreign country;  
or
    - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are

together, of a duration of 12 months or more; or

(B) has been lawfully in Australia for 12 months or more.

573.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.

573.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

573.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

573.326 The Minister is satisfied that:

- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.

573.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

573.328 If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 573.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

- 573.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 573.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
  - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 573.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
  - (b) if the applicant is in Australia — from Australia.
- 573.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

#### **573.4 Circumstances applicable to grant**

- 573.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 573.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

#### **573.5 When visa is in effect**

- 573.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
  - (b) otherwise — until a date specified by the Minister.

## 573.6 Conditions

- 573.611 (1) If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
  - (b) subject to subclause (2), condition 8101; and
  - (c) subject to subclause (3), condition 8206; and
  - (d) if the applicant is a citizen of Iran, condition 8203; and
  - (e) subject to clause 573.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- (2) If the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 573.211 (4); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;
- condition 8105.
- (3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 573.211 (5) or (6); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.
- 573.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 573.613 (1) If the applicant (the *primary applicant*) is subject to assessment level 3, 4 or 5 and is seeking to undertake a course of study that is, or courses of

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study that are together, of 10 months duration or less, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

573.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

573.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

573.616 (1) If the applicant satisfies the secondary criteria:

- (a) in all cases:
  - (i) condition 8501; and
  - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
- (b) if the applicant is a citizen of Iran, condition 8204; and
- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
- (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.

(2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:

- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
- (b) the applicant was the holder of a Subclass 563 visa; or
- (c) the applicant was:
  - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
  - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

573.617 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:

- (a) the application was made in Australia and, at the time of application, the applicant was the holder of a student visa that was subject to condition 8104;
- (b) the application was made in Australia and:
  - (i) the applicant was, at the time of application, a member of the family unit of a person who was the holder of a Subclass 560, 562 or 573 visa; and
  - (ii) the applicant met the requirement of paragraph 573.312 (4) (d).

(2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a) and (b) applies, condition 8101.

## **573.7 Way of giving evidence**

573.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.



573.712 If evidence is given, to be given by visa label affixed to a valid passport.

## **Subclass 574 Masters and Doctorate Sector**

### **574.1 Interpretation**

574.111 In this Part:

*course of study* means a full-time registered course of study.

*Note foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

### **574.2 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.

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

574.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

(a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);

- 
- (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);  
or
  - (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
  - (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
    - (iii) Subclass 497 (Graduate — Skilled) visa.
  - (3) An applicant meets the requirements of this subclause if:
    - (a) the applicant is not the holder of a substantive visa; and
    - (b) the last substantive visa held by the applicant was:
      - (i) a student visa; or
      - (ii) a special purpose visa; or
      - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
      - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or

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- consular representative of a foreign country; or
- (v) a Subclass 497 (Graduate — Skilled) visa; and
  - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 574 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 574 visa that is subject to condition 8206; and
  - (b) the application was made on form 157C; and
  - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a full-time course of study other than the education provider of a course of study for which the visa held was granted; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 575 or 576 visa that is subject to condition 8206; and

- (b) the application was made on form 157A; and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

574.212 If the application is made in Australia, 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.

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

574.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.211 (4) or (5), the applicant satisfies the criteria in clauses 574.222 to 574.230.

(2) If, at the time of application, the applicant met the requirements of subclause 574.211 (4):

- (a) the applicant continues to meet the requirements of paragraph 574.211 (4) (a); and
- (b) either:
  - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
  - (ii) the applicant satisfies the criteria in clauses 574.223 to 574.230.

(3) If, at the time of application, the applicant met the requirements of subclause 574.211 (5):

- (a) the applicant continues to meet the requirements of paragraphs 574.211 (5) (a) and (d); and
- (b) either:
  - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
  - (ii) the applicant satisfies the criteria in clauses 574.222 to 574.230.

- 574.222 (1) Except if subclause (2) or (3) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 560, 562 or 574 visa, the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a post-graduate thesis.
- (4) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 574.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (a) evidence given in accordance with Schedule 5A in relation to:
- (i) the applicant's English language proficiency for the purposes of the course; and
  - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
  - (iii) other requirements under Schedule 5A; and

- (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
  - (c) any other relevant matter.
- 574.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
  - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
  - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 574.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 574.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 574.212.
- 574.227 If:
- (a) the application was made in Australia; and
  - (b) the applicant is subject to assessment level 3, 4 or 5; and
  - (c) at the time of application, the applicant met the requirements of clause 574.211:
    - (i) as the holder of a visa of one of the following classes:
      - (A) Border (Temporary) (Class TA);
      - (B) Business (Temporary) (Class TB);
      - (C) Cultural/Social (Temporary) (Class TE);
      - (D) Educational (Temporary) (Class TH);
      - (E) Electronic Travel Authority (Class UD);

- (F) Expatriate (Temporary) (Class TJ);
- (G) Family Relationship (Temporary) (Class TL);
- (H) Interdependency (Temporary) (Class TM);
- (I) Long Stay (Visitor) (Class TN);
- (J) Medical Practitioner (Temporary) (Class UE);
- (K) Retirement (Temporary) (Class TQ);
- (L) Short Stay (Visitor) (Class TR);
- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
  - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
  - (C) Subclass 497 (Graduate — Skilled) visa; or
- (iv) as a person:
  - (A) who was not the holder of a substantive visa; and
  - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 574 visa.

574.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or

consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

574.229 If:

- (a) the application was made in Australia; and
- (b) either:
  - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
  - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

574.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

### **574.3 Secondary criteria**

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

574.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 574.21.



- 574.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
- (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
- (i) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
  - (iii) Subclass 497 (Graduate — Skilled) visa.

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- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 574.211 (3); and
  - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 574 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 574 visa; and
  - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 574 visa mentioned in paragraph (c) has commenced a course of study.
- 574.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.
- 574.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 574 visa to the primary applicant was made.

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

574.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.312 (4), the applicant satisfies the criteria in clauses 574.322 to 574.331.

(2) If, at the time of application, the applicant met the requirements of subclause 574.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 574.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322; or

(ii) the applicant satisfies the criteria in clauses 574.322 to 574.331.

574.322 The applicant is a member of the family unit of a person (the **primary person**):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory;  
or

(B) the government of a foreign country;  
or

(C) a multilateral agency;

(iii) the primary person:

- (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
  - (B) has been lawfully in Australia for 12 months or more; or
  - (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 574.21 and 574.22 and who meets one of the following:
    - (i) the primary person is subject to assessment level 1 or 2;
    - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
      - (A) the Commonwealth or the government of a State or Territory; or
      - (B) the government of a foreign country; or
      - (C) a multilateral agency;
    - (iii) the primary person:
      - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
      - (B) has been lawfully in Australia for 12 months or more.
- 574.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 574.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 574.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

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- 574.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322; and
  - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
  - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 574.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 574.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 574.322; and
  - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 574.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 574.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
  - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 574.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or

(b) if the applicant is in Australia — from Australia.

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

#### **574.4 Circumstances applicable to grant**

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

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

#### **574.5 When visa is in effect**

574.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

#### **574.6 Conditions**

574.611 (1) If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
- (b) subject to subclause (2), condition 8101; and
- (c) subject to subclause (3), condition 8206; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 574.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

(2) If the application was made in Australia and, at the time of application, the applicant:

- 
- (a) met the requirements of subclause 574.211 (4);  
or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;

condition 8105.

(3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 574.211 (5) or (6); or
- (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.

574.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

574.613 (1) If the applicant (the *primary applicant*) is subject to assessment level 3, 4 or 5 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

574.613A (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that has been gazetted for subregulation 1.44 (2) and the applicant did not provide evidence of English language proficiency otherwise required under clause 5A604 or 5A607 of Schedule 5A, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

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- 574.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 574.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 574.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
    - (i) condition 8501; and
    - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
  - (b) if the applicant is a citizen of Iran, condition 8204; and
  - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
  - (d) subject to clause 574.617, condition 8101; and
  - (e) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
  - (b) the applicant was the holder of a Subclass 563 visa; or



- (c) the applicant was:
- (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
  - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

574.617 Condition 8101 is not imposed on a student visa if the application was made in Australia and, at the time of application, the applicant:

- (a) met the requirements of subclause 574.312 (4); or
- (b) was the holder of a Subclass 560, 563 or 574 visa that was not subject to condition 8101.

## 574.7 Way of giving evidence

574.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.

574.712 If evidence is given, to be given by visa label affixed to a valid passport.

## Subclass 575 Non-award Foundation/Other Sector

### 575.1 Interpretation

575.111 In this Part:

*course of study* means a full-time registered course of study.

*Note 1 non-award course* is defined in regulation 1.03.

*Note 2 foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

## 575.2 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.

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

575.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

(a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or

(b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a

- 
- foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
- (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the applicant was:
    - (i) a student visa; or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
    - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; and
  - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and
  - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 575 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study.

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

- (a) the applicant is the holder of a Subclass 560, 562 or 575 visa that is subject to condition 8206; and
- (b) the application was made on form 157C; and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

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

- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 574 or 576 visa that is subject to condition 8206; and
- (b) the application was made on form 157A; and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

575.212 If the application is made in Australia, 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.

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

575.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.211 (4) or (5),

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the applicant satisfies the criteria in clauses 575.222 to 575.230.

(2) If, at the time of application, the applicant met the requirements of subclause 575.211 (4):

(a) the applicant continues to meet the requirements of paragraph 575.211 (4) (a); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 575.223 to 575.230.

(3) If, at the time of application, the applicant met the requirements of subclause 575.211 (5):

(a) the applicant continues to meet the requirements of paragraphs 575.211 (5) (a) and (d); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine student; or

(ii) the applicant satisfies the criteria in clauses 575.222 to 575.230.

575.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

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- 575.223 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (a) evidence given in accordance with Schedule 5A in relation to:
    - (i) the applicant's English language proficiency for the purposes of the course; and
    - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
    - (iii) other requirements under Schedule 5A; and
  - (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
  - (c) any other relevant matter.
- 575.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
  - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
  - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 575.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 575.226 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 575.212.
- 575.227 If:
- (a) the application was made in Australia; and

- 
- (b) the applicant is subject to assessment level 3, 4 or 5; and
- (c) at the time of application, the applicant met the requirements of clause 575.211:
- (i) as the holder of a visa of one of the following classes:
    - (A) Border (Temporary) (Class TA);
    - (B) Business (Temporary) (Class TB);
    - (C) Cultural/Social (Temporary) (Class TE);
    - (D) Educational (Temporary) (Class TH);
    - (E) Electronic Travel Authority (Class UD);
    - (F) Expatriate (Temporary) (Class TJ);
    - (G) Family Relationship (Temporary) (Class TL);
    - (H) Interdependency (Temporary) (Class TM);
    - (I) Long Stay (Visitor) (Class TN);
    - (J) Medical Practitioner (Temporary) (Class UE);
    - (K) Retirement (Temporary) (Class TQ);
    - (L) Short Stay (Visitor) (Class TR);
    - (M) Supported Dependant (Temporary) (Class TW);
    - (N) Temporary Business Entry (Class UC);
    - (O) Working Holiday (Temporary) (Class TZ); or
  - (ii) as the holder of a special purpose visa; or
  - (iii) as the holder of a visa of one of the following subclasses:
    - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or

(iv) as a person:

- (A) who was not the holder of a substantive visa; and
- (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 575 visa.

575.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

575.229 If:

- (a) the application was made in Australia; and
- (b) either:
  - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
  - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a full-time non-award course.

575.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.



### 575.3 Secondary criteria

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

575.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 575.21.

575.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes:
  - (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);
  - (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);

- 
- (xvi) Working Holiday (Temporary) (Class TZ);  
or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
- (i) Subclass 303 (Emergency (Temporary Visa Applicant));
  - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 575.211 (3); and
  - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 575 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 575 visa; and
  - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 575 visa mentioned in paragraph (c) has commenced a course of study.

575.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the

applicant has complied substantially with any conditions to which that visa is subject.

575.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 575 visa to the primary applicant was made.

575.315 The applicant is not an exchange student.

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

575.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.312 (4), the applicant satisfies the criteria in clauses 575.322 to 575.331.

(2) If, at the time of application, the applicant met the requirements of subclause 575.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 575.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322; or

(ii) the applicant satisfies the criteria in clauses 575.322 to 575.331.

575.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of

Part 560 as it read immediately before  
1 July 2001;

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
    - (A) the Commonwealth or the government of a State or Territory;  
or
    - (B) the government of a foreign country;  
or
    - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
    - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 575.21 and 575.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
  - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
    - (A) the Commonwealth or the government of a State or Territory;  
or
    - (B) the government of a foreign country;  
or
    - (C) a multilateral agency;
  - (iii) the primary person:
    - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are

together, of a duration of 12 months or more; or

(B) has been lawfully in Australia for 12 months or more.

575.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.

575.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

575.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

575.326 The Minister is satisfied that:

- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.

575.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

575.328 If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 575.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

575.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 575.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

575.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.

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

#### **575.4 Circumstances applicable to grant**

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

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

#### **575.5 When visa is in effect**

575.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

## 575.6 Conditions

- 575.611 (1) If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8202, 8501, 8517, 8532 and 8533; and
  - (b) subject to subclause (2), condition 8101; and
  - (c) subject to subclause (3), condition 8206; and
  - (d) if the applicant is a citizen of Iran, condition 8204; and
  - (e) subject to clause 575.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- (2) If the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 575.211 (4); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;
- condition 8105.
- (3) Condition 8206 does not apply to a visa granted to an applicant if the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 575.211 (5) or (6); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was not subject to condition 8206.
- 575.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 575.613 (1) If the applicant (the *primary applicant*) is subject to assessment level 3, 4 or 5 and is seeking to undertake a course of study that is, or courses of

study that are together, of 10 months duration or less, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

575.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

575.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

575.616 (1) If the applicant satisfies the secondary criteria:

- (a) in all cases:
  - (i) condition 8501; and
  - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
- (b) if the applicant is a citizen of Iran, condition 8204; and
- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
- (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.

(2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:



- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
- (b) the applicant was the holder of a Subclass 563 visa; or
- (c) the applicant was:
  - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
  - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

575.617 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:

- (a) the application was made in Australia and, at the time of application, the applicant was the holder of a student visa that was subject to condition 8104;
- (b) the application was made in Australia and:
  - (i) the applicant was, at the time of application, a member of the family unit of a person who:
    - (A) was the holder of a Subclass 560 visa and was a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001; or

*Note* Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (B) was the holder of a Subclass 575 visa and was subject to assessment level 1 or 2; and
  - (ii) the applicant met the requirement of paragraph 575.312 (4) (d);
- (c) the application was made in Australia and:

- (i) the applicant was, at the time of application, a member of the family unit of a person who:
  - (A) was the holder of a Subclass 560 visa and was not included in the class of persons specified by Gazette Notice for the purposes of sub-subparagraph (b) (i) (A); or
  - (B) was the holder of a Subclass 562 visa; or
  - (C) was the holder of a Subclass 575 visa and was subject to assessment level 3, 4 or 5; and
- (ii) the applicant met the requirement of paragraph 575.312 (4) (d) in relation to a full-time non-award course that is paid for, wholly or in part, by:
  - (A) the Commonwealth; or
  - (B) the government of a State or Territory; or
  - (C) the government of a foreign country; or
  - (D) a multilateral agency.

(2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a), (b) and (c) applies, condition 8101.

### **575.7 Way of giving evidence**

575.711 No evidence need be given if the visa is granted on the basis of an application that was made on form 157E.

575.712 If evidence is given, to be given by visa label affixed to a valid passport.

### **Subclass 576 AusAID or Defence Sector**

## 576.1 Interpretation

576.111 In this Part:

*course of study or training* means a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister.

*Note foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

## 576.2 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.

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

576.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if the applicant is:

(a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (x) Medical Practitioner (Temporary) (Class UE);

- (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);  
or
  - (b) the holder, as the spouse or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
  - (c) the holder of a special purpose visa; or
  - (d) the holder of a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the applicant was:
    - (i) a student visa; or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
    - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; and
  - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after that last substantive visa ceased to be in effect; and

- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
  - (a) the applicant is the holder of a Subclass 560, 562 or 576 visa that is subject to condition 8101; and
  - (b) the application was made on form 157P; and
  - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study or training for which the visa held was granted; and
  - (d) the applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.
- (5) An applicant meets the requirements of this subclause if:
  - (a) the applicant is the holder of a Subclass 560 or 562 visa that is subject to condition 8206; and
  - (b) the application was made on form 157C; and
  - (c) the applicant has the support of the AusAID Minister or the Defence Minister for the change in enrolment; and
  - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

576.212 If the application is made in Australia, 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.

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

576.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 576.211 (4) or (5), the applicant satisfies the criteria in clauses 576.222 to 576.229.

(2) If, at the time of application, the applicant met the requirements of subclause 576.211 (4):

- (a) the applicant continues to meet the requirements of paragraph 576.211 (4) (a); and
- (b) either:
  - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
  - (ii) the applicant satisfies the criteria in clauses 576.222 to 576.229.

(3) If, at the time of application, the applicant met the requirements of subclause 576.211 (5):

- (a) the applicant continues to meet the requirements of paragraphs 576.211 (5) (a) and (c); and
- (b) either:
  - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
  - (ii) the applicant satisfies the criteria in clauses 576.222 to 576.229.

576.222 The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

- (a) evidence given in accordance with Schedule 5A in relation to:
  - (i) the applicant's English language proficiency for the purposes of the course; and
  - (ii) the financial capacity of the applicant to undertake the course without contravening any condition of the visa relating to work; and
  - (iii) other requirements under Schedule 5A; and
- (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
- (c) any other relevant matter.

- 
- 576.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
  - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
  - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 576.224 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.225 If the application was made in Australia, the applicant continues to satisfy the criterion in clause 576.212.
- 576.226 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
  - (b) the Foreign Minister recommends the grant of the visa.
- 576.227 If:
- (a) the application was made in Australia; and
  - (b) either:
    - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
    - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
  - (c) the applicant is, or was, provided financial support by the Commonwealth or the

government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study or training.

576.228 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

576.229 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

### **576.3 Secondary criteria**

*Note* Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

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

576.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 576.21.

576.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes:
  - (i) Border (Temporary) (Class TA);
  - (ii) Business (Temporary) (Class TB);
  - (iii) Cultural/Social (Temporary) (Class TE);
  - (iv) Educational (Temporary) (Class TH);
  - (v) Electronic Travel Authority (Class UD);



- (vi) Expatriate (Temporary) (Class TJ);
  - (vii) Family Relationship (Temporary) (Class TL);
  - (viii) Interdependency (Temporary) (Class TM);
  - (ix) Long Stay (Visitor) (Class TN);
  - (x) Medical Practitioner (Temporary) (Class UE);
  - (xi) Retirement (Temporary) (Class TQ);
  - (xii) Short Stay (Visitor) (Class TR);
  - (xiii) Student (Temporary) (Class TU);
  - (xiv) Supported Dependant (Temporary) (Class TW);
  - (xv) Temporary Business Entry (Class UC);
  - (xvi) Working Holiday (Temporary) (Class TZ);
- or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
  - (c) a special purpose visa; or
  - (d) a visa of one of the following subclasses:
    - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
    - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
  - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 576.211 (3); and
  - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:

- (a) the applicant is the holder of a Subclass 560, 563 or 576 visa that is subject to condition 8101; and
- (b) the application was made on form 157P; and
- (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 576 visa; and
- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 576 visa mentioned in paragraph (c) has commenced a course of study or training.

576.313 If the application is made in Australia, and the applicant holds a visa at the time of application, the applicant has complied substantially with any conditions to which that visa is subject.

576.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 576 visa to the primary applicant was made.

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

576.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 576.312 (4), the applicant satisfies the criteria in clauses 576.322 to 576.332.

(2) If, at the time of application, the applicant met the requirements of subclause 576.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 576.312 (4) (a) and (c); and

(b) either:

(i) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family

- unit of the primary person mentioned in clause 576.322; or
- (ii) the applicant satisfies the criteria in clauses 576.322 to 576.332.
- 576.322 The applicant is a member of the family unit of a person (the *primary person*) who:
- (a) is the holder of a Subclass 560, 562 or 576 visa; and
  - (b) had the support of the AusAID Minister or the Defence Minister for the grant of that visa.
- 576.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 576.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 576.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 576.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 576.322; and
  - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
  - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 576.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.328 If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 576.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

576.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 576.322, the primary person is, or is expected soon to be, in Australia.

576.330 The Minister is satisfied that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.

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

576.332 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

#### **576.4 Circumstances applicable to grant**

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

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

#### **576.5 When visa is in effect**

576.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P — until the date on which the visa held by the applicant

at the time of application would have ceased to be in effect; and

- (b) otherwise — until a date specified by the Minister.

## **576.6 Conditions**

- 576.611 (1) If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8202, 8501, 8517 and 8533; and
  - (b) subject to subclause (2), condition 8101; and
  - (c) if the applicant is a citizen of Iran, condition 8203; and
  - (d) subject to clause 576.612, any 1 or more of conditions 8303, 8523, 8534 and 8535 may be imposed.
- (2) If the application was made in Australia and, at the time of application, the applicant:
- (a) met the requirements of subclause 576.211 (4); or
  - (b) was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8105;
- condition 8105.
- 576.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 576.613 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
    - (i) condition 8501; and
    - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
  - (b) if the applicant is a citizen of Iran, condition 8204; and

- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
  - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
  - (b) the applicant was the holder of a Subclass 563 visa; or
  - (c) the applicant was:
    - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
    - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 (as a person who satisfied the secondary criteria for the subclass) or 563 visa that was subject to condition 8101.
- 576.614 (1) If the applicant satisfies the secondary criteria and any of the following paragraphs apply, condition 8104:
- (a) the application was made in Australia and, at the time of application, the applicant was the holder of a student visa that was subject to condition 8104;
  - (b) the application was made in Australia and:
    - (i) the applicant was, at the time of application, a member of the family unit of a person who was the holder of a Subclass 560, 562 or 576 visa; and
    - (ii) the applicant met the requirement of paragraph 576.312 (4) (d).

- (2) If the applicant satisfies the secondary criteria and none of paragraphs (1) (a) and (b) applies, condition 8101.

## **576.7 Way of giving evidence**

- 576.711 Visa label affixed to a valid passport.

### **[98] Division 686.1, note**

#### *substitute*

*Note Internet application, oral application and tourism* are defined in regulation 1.03. No interpretation provisions specific to this Part.

### **[99] Clauses 686.211, 686.212 and 686.213**

#### *substitute*

- 686.211 (1) If the application is not an Internet application, the applicant meets the requirements of subclauses (2), (3) and (4).
- (2) 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).

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

(4) If the application is made in Australia:

(a) the applicant:

(i) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — 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.

686.212 If the application is an Internet application, the applicant:

(a) satisfies public interest criteria 4002, 4003, 4004, 4005 and 4011; and

(b) states in the application that the applicant seeks to visit Australia, or remain in Australia, as a visitor for tourism purposes and not for business, work, study, or medical treatment purposes; and

(c) states in the application that the applicant has adequate funds, or access to adequate funds, for personal support during the period of the visit.

*Note* See also clause 686.213.

686.213 If:

(a) the application is an Internet application; and

(b) the applicant does not satisfy the criteria in clause 686.212;



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the applicant meets the requirements of subclauses 686.211 (2) and (4).

**[100] Subclause 686.221 (1)**

*substitute*

(1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

**[101] Paragraph 686.221 (2) (a)**

*omit*

clause 686.211; and

*insert*

subclause 686.211 (2); and

**[102] Paragraph 686.221 (2) (b)**

*omit*

clause 686.212; and

*insert*

subclause 686.211 (3); and

**[103] Subparagraph 686.221 (2) (g) (i)**

*omit*

paragraph 686.213 (b); and

*insert*

paragraph 686.211 (4) (b); and

**[104] After subclause 686.221 (4)**

*insert*

(5) The applicant meets the requirements of this subclause if:

- 
- (a) the application for the visa was an Internet application that met the requirements of clause 686.212; and
  - (b) the applicant continues to satisfy the criteria in that clause.
- (6) The applicant meets the requirements of this subclause if:
- (a) the application for the visa was an Internet application that met the requirements of clause 686.213, and:
    - (i) the applicant continues to satisfy the criterion in subclauses 686.211 (2) and (4); and
    - (ii) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and
    - (iii) in the case of an applicant who has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant; and
    - (iv) the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013 and 4014; and
    - (v) 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
    - (vi) the Minister is satisfied that the applicant intends to comply with any conditions to which the visa is granted; and
    - (vii) 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; or

- 
- (b) the application for the visa was an Internet application that met the requirements of clause 686.213, and:
- (i) the applicant is in Australia; and
  - (ii) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; 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 has compelling personal reasons for the grant of the visa; and
  - (v) the applicant satisfies public interest criterion 4005; or
- (c) the application for the visa was an Internet application that met the requirements of clause 686.213, and:
- (i) the applicant is in Australia; and
  - (ii) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia; and
  - (iii) the applicant, or a member of the applicant's immediate family, is likely to become a charge on public funds in Australia; and
  - (iv) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia; and
  - (v) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
  - (vi) the applicant meets public interest criterion 4005; and
  - (vii) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and

- (viii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

**[105] Subclause 686.511 (2)**

*omit*

oral application —

*insert*

oral application or an Internet application —

**[106] After subclause 686.511 (3)**

*insert*

- (4) If the visa is granted as a result of the applicant satisfying the criteria in clause 686.212 — temporary visa permitting the holder:
- (a) to remain in Australia for a period not longer than 6 months after the date of latest entry; and
  - (b) if the visa holder leaves Australia during the visa period:
    - (i) to travel to, and enter, Australia on 1 or more occasions for a period not longer than 6 months after the date of latest entry referred to in paragraph (a); and
    - (ii) to remain in Australia for a period not longer than 6 months after the date of latest entry referred to in paragraph (a).

**[107] Division 686.6**

*substitute*

**686.6 Conditions**

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

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- 686.612 In the case of a visa granted as a result of the applicant satisfying the criteria in clause 686.212, conditions 8101, 8201, 8205, 8503, 8527 and 8528.
- 686.613 In any other case, conditions 8101, 8201 and 8205.
- 686.614 Condition 8503 may be imposed.

**[108] Clause 686.711**

*substitute*

- 686.711 No evidence need be given if the visa is granted on the basis of an oral application or an Internet application.

**[109] Paragraph 773.213 (2) (zo)**

*substitute*

- (zo) Skilled — New Zealand Citizen (Residence) (Class DB);
- (zp) Skilled — Independent Overseas Student (Residence) (Class DD);
- (zq) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE).

**[110] Paragraph 773.213 (3) (ga)**

*substitute*

- (ga) Graduate — Skilled (Temporary) (Class UQ);
- (gb) Interdependency (Provisional) (Class UG);

**[111] Subparagraph 855.212 (4) (c) (i)**

*omit*

visa of a class

*insert*

visa of a class or subclass

**[112] Subparagraph 855.212 (4) (c) (ii)**

*omit*

those criteria.

*insert*

those criteria; or

**[113] After paragraph 855.212 (4) (c)**

*insert*

(d) a Graduate — Skilled (Temporary) (Class UQ)  
visa.

**[114] Subparagraph 856.212 (4) (c) (i)**

*omit*

visa of a class

*insert*

visa of a class or subclass

**[115] Subparagraph 856.212 (4) (c) (ii)**

*omit*

those criteria.

*insert*

those criteria; or

**[116] After paragraph 856.212 (4) (c)**

*insert*

(d) a Graduate — Skilled (Temporary) (Class UQ)  
visa.

**[117] Subparagraph 857.212 (4) (c) (i)**

*omit*

visa of a class

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*insert*

visa of a class or subclass

**[118] Subparagraph 857.212 (4) (c) (ii)**

*omit*

those criteria.

*insert*

those criteria; or

**[119] After paragraph 857.212 (4) (c)**

*insert*

(d) a Graduate — Skilled (Temporary) (Class UQ)  
visa.

**[120] Subparagraph 857.213 (b) (i)**

*omit*

2.08CA,

*insert*

2.08CA or 2.08CB,

**[121] Sub-subparagraph 857.213 (b) (i) (A)**

*omit*

visa; and

*insert*

or Skilled — Independent Overseas Student (Residence)  
(Class DD) visa; and

**[122] After Part 866**

*insert*

**Subclass 880 Skilled — Independent  
Overseas Student**

**880.1 Interpretation**

*Note 1* For *vocational English*, see regulation 1.15B.

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

**880.2 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.

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

*Note* The requirements for making a valid application for a Skilled — Independent Overseas Student (Residence) (Class DD) visa are set out in item 1128CA of Schedule 1.

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

880.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

880.222 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

*Note* That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are



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provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

- 880.223 The applicant has vocational English.
- 880.224 No evidence has become available since the time of application that the information given or used as part of the assessment referred to in paragraph 1128CA (3) (k) of Schedule 1 is false or misleading in a material particular.
- 880.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 880.226 If so requested by the Minister, an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 880.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 880 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 880 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.
- 880.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

- 880.229 Approval of the application would not result in either:
- (a) the number of Subclass 880 visas granted in a financial year exceeding the maximum number of Subclass 880 visas, as determined by Gazette Notice, that may be granted in that financial year; or
  - (b) the number of visas of particular classes (including Subclass 880) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.

### **880.3 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.

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

*Note* The requirements for making a valid application for a Skilled — Independent Overseas Student (Residence) (Class DD) visa are set out in item 1128CA of Schedule 1.

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

- 880.321 The applicant is a member of the family unit of, and made a combined application with, a person who, having satisfied the primary criteria, is the holder of a Subclass 880 visa.
- 880.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 880.323 If the Minister has requested an assurance of support under clause 880.226, either:
- (a) the applicant is included in any 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.

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

#### **880.4 Circumstances applicable to grant**

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

#### **880.5 When visa is in effect**

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

#### **880.6 Conditions: Nil.**

#### **880.7 Way of giving evidence**

880.711 Visa label affixed to a valid passport.

### **Subclass 881 Skilled — Australian-sponsored Overseas Student**

#### **881.1 Interpretation**

*Note 1* For *vocational English*, see regulation 1.15B.

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

#### **881.2 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.

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

881.211 The assurance of support that accompanied the applicant's application under paragraph 1128BA (3) (n) of Schedule 1 has been accepted by the Minister.

*Note* The requirements for making a valid application for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa are set out in item 1128BA of Schedule 1.

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

881.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

881.222 The assurance of support referred to in clause 881.211 continues to be acceptable to the Minister.

881.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

881.224 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

*Note* That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these Regulations. In certain circumstances, attributes of the spouse of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

881.225 The applicant has vocational English.

881.226 No evidence has become available since the time of application that the information given or used as

- 
- part of the assessment referred to in subparagraph 1128BA (3) (j) (iv) of Schedule 1 is false or misleading in a material particular.
- 881.227 If the applicant does not satisfy the criteria in clauses 881.223, 881.225 and 881.226:
- (a) the applicant satisfies the criterion specified in clause 881.224 because of regulation 2.27A; and
  - (b) the applicant's spouse:
    - (i) is a former overseas student for the purposes of paragraph 1128BA (3) (j) of Schedule 1; and
    - (ii) satisfies the criteria in clauses 881.223, 881.225 and 881.226.
- 881.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 881.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 881 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 881 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.
- 881.230 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

- 881.231 Approval of the application would not result in either:
- (a) the number of Subclass 881 visas granted in a financial year exceeding the maximum number of Subclass 881 visas, as determined by Gazette Notice, that may be granted in that financial year; or
  - (b) the number of visas of particular classes (including Subclass 881) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.

### **881.3 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.

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

- 881.311 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 881.21.
- 881.312 The assurance of support that accompanied the applicant's application under paragraph 1128BA (3) (n) of Schedule 1 has been accepted by the Minister.

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

- 881.321 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 881 visa.
- 881.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

- 
- 881.323 The assurance of support referred to in clause 881.312 continues to be acceptable to the Minister.
- 881.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 881.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

#### **881.4 Circumstances applicable to grant**

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

#### **881.5 When visa is in effect**

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

#### **881.6 Conditions: Nil.**

#### **881.7 Way of giving evidence**

- 881.711 Visa label affixed to a valid passport.

### **Subclass 882 Skilled — Designated Area-sponsored Overseas Student**

#### **882.1 Interpretation**

*Note 1* For *vocational English*, see regulation 1.15B.

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

#### **882.2 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.

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

882.211 The assurance of support that accompanied the applicant's application under paragraph 1128BA (3) (n) of Schedule 1 has been accepted by the Minister.

*Note* The requirements for making a valid application for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa are set out in item 1128BA of Schedule 1.

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

882.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

882.222 The sponsor is still resident in a designated area.

882.223 The assurance of support referred to in clause 882.211 continues to be acceptable to the Minister.

882.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

882.225 Either the applicant has vocational English, or:

- (a) has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
- (b) his or her sponsor lives in a State or Territory specified by Gazette Notice as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
- (c) the Minister is satisfied that he or she has paid any fee or charge for that training.



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- 882.226 No evidence has become available since the time of application that the information given or used as part of the assessment referred to in subparagraph 1128BA (3) (j) (iv) of Schedule 1 is false or misleading in a material particular.
- 882.227 If the applicant does not satisfy the criteria in clauses 882.224, 882.225 and 882.226, the applicant's spouse:
- (a) is a former overseas student for the purposes of paragraph 1128BA (3) (j) of Schedule 1; and
  - (b) satisfies the criteria in clauses 882.224, 882.225 and 882.226.
- 882.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.229 Each member of the family unit of the applicant who is an applicant for a Subclass 882 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.230 Each member of the family unit of the applicant who is not an applicant for a Subclass 882 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.
- 882.231 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 882.232 Approval of the application would not result in either:

- (a) the number of Subclass 882 visas granted in a financial year exceeding the maximum number of Subclass 882 visas, as determined by Gazette Notice, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 882) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.

### **882.3 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.

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

882.311 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 882.21.

882.312 The assurance of support that accompanied the applicant's application under paragraph 1128BA (3) (n) of Schedule 1 has been accepted by the Minister.

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

882.321 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 882 visa.

882.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

882.323 The assurance of support referred to in clause 882.312 continues to be acceptable to the Minister.

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

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

**882.4 Circumstances applicable to grant**

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

**882.5 When visa is in effect**

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

**882.6 Conditions: Nil.**

**882.7 Way of giving evidence**

882.711 Visa label affixed to a valid passport.

**Part 1.4 Amendments of Schedules 4, 5, 8 and 9**

**[123] Schedule 4, Part 2, item 4055**

*omit*

8202 or

**[124] Schedule 4, Part 2, after item 4055**

*insert*

4055A 497 (Graduate — Skilled) 8501

**[125] Schedule 5, subclauses 5010 (1) and (2)**

*substitute*

- (1) If the applicant is the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who is provided financial support by the government of a foreign country, the applicant meets the requirements of subclause (3), (4) or (5).
- (2) If:
  - (a) the applicant is not the holder of a substantive visa; and
  - (b) the last substantive visa held by the person was:
    - (i) an AusAID student visa within the meaning of regulation 1.04A; or
    - (ii) a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who was provided financial support by the government of a foreign country;the applicant meets the requirements of subclause (3), (4) or (5).

**[126] Schedule 5, subparagraph 5010 (4) (a) (ii)**

*substitute*

- (ii) another course approved by the AusAID Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, in substitution for that course; and

**[127] Schedule 5, paragraph 5010 (5) (a)**

*substitute*

- (a) the applicant has the support of the AusAID Minister or the government of the foreign country

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that provided financial support to the applicant, as the case requires, for the grant of the visa; or

[128] After Schedule 5

*insert*

## Schedule 5A Evidentiary requirements for student visas

(regulation 1.44)

### Part 1 Preliminary

#### 5A101 Definitions

In this Schedule:

***AASES (Acceptance Advice of Secondary Exchange Student)***, for an exchange student, has the meaning given by clause 5A107.

***course fees***, for an applicant in relation to a period, means the fees for each course proposed to be undertaken by the applicant in the period, as indicated by the proposed education providers in a letter or other document.

***family applicant***, for an applicant, means a member of the applicant's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the applicant.

***financial institution*** means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the foreign country in which it operates, that the Minister is satisfied provides effective prudential assurance.

**first 12 months**, for an applicant, means the period that:

- (a) begins:
  - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; and
  - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
  - (i) the day 12 months after the beginning of the period;
  - (ii) the last day of the applicant's proposed stay in Australia.

**full period**, for an applicant, means the period that:

- (a) begins:
  - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; and
  - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

**fully funded** has the meaning given by clause 5A103.

**initial period**, for an applicant, means the period that:

- (a) begins:
  - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; and
  - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
  - (i) the day 12 months after the expected commencement date of the applicant's principal course;

- (ii) the last day of the applicant's proposed stay in Australia.

*living costs* has the meaning given by subclause 5A104 (1).

*money deposit* means a money deposit with a financial institution.

*school costs* has the meaning given by subclause 5A104 (2).

*travel costs*, for an applicant, means the sum of costs for each of the applicant and any family applicant:

- (a) if the applicant or family applicant is not in Australia when the application is made — of travelling to Australia; and
- (b) of returning to the applicant's home country at the end of his or her stay.

*value*, of an item of property, has the meaning given by clause 5A105.

#### **5A102 Gazettal of alternatives to the IELTS test**

The Minister may specify in a Gazette Notice:

- (a) an English language proficiency test as an alternative to the IELTS test; and
- (b) the foreign country or countries in which that test may be taken by an applicant; and
- (c) the test score that must be achieved by the applicant for this clause.

#### **5A103 Meaning of fully funded**

- (1) An applicant is *fully funded* if the applicant's costs listed in subclause (2) will be met by one or more of the following:
  - (a) a multilateral agency;
  - (b) a government of a foreign country;
  - (c) the Commonwealth Government, or the government of a State or Territory.

- (2) The costs for subclause (1) are the following costs for the applicant's full period, assessed for the applicant alone:
- (a) course fees;
  - (b) living costs;
  - (c) travel costs.

#### **5A104 Meaning of *living costs* and *school costs***

- (1) An applicant's *living costs* for a period are taken to accrue at the sum of the following rates:
- (a) \$12 000 per year (the *basic rate*);
  - (b) if the applicant has a spouse — 35% of the basic rate;
  - (c) if the applicant has a dependent child — 20% of the basic rate;
  - (d) if the applicant has any further dependent children — 15% of the basic rate for each such child.
- (2) An applicant's *school costs* are taken to accrue at the rate of \$8 000 per year for each child who is a school-age dependant at the time, whether or not the child is a family applicant.

#### **5A105 Assessing the value of an item of property**

- (1) This clause applies if an applicant provides evidence of his or her financial capacity that is based on, among other things, the value of the interest of a person in an item of property.
- (2) The applicant must give written evidence that:
- (a) the interest is a proprietary interest; and
  - (b) the interest is held by the person; and
  - (c) its value has been assessed in accordance with this clause by someone who the Minister is satisfied is qualified to make the assessment.



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- (3) If the interest is not an interest in a business, the value must be the net market value of the interest.
  - (4) If the interest is an interest in a business, the value of the interest:
    - (a) must be the net value of the interest; and
    - (b) may include the value of any good will (or its equivalent) that had accrued at the time the interest in the business was acquired by the person, but must not include any increase in the value of the good will since the acquisition.

**5A106 Satisfying a proposed education provider about English language proficiency**

A provision in this Schedule that requires an applicant to give evidence of a level of English language proficiency that satisfies his or her proposed education provider requires evidence that the education provider of each of the applicant's proposed courses is satisfied that the applicant will, when the course begins, have an adequate level of English language proficiency, taking into account any ELICOS or other course that the applicant will undertake in Australia before the course concerned.

**5A107 Exchange student must give AASES**

An applicant seeking to satisfy the primary criteria in Subclass 571 (Schools Sector) who is an exchange student must give the declarations made by:

- (a) the applicant's exchange organisation, accepting the student; and
- (b) the applicant's parents, or the person or persons having custody of the applicant, agreeing to the exchange;

on an Acceptance Advice of Secondary Exchange Student form from the relevant State or Territory education authority (the *AASES* for the applicant).

*Note* For the definition of *custody*, see regulation 1.03.

**5A108 Applicant must show enrolment or offer of place**

If the applicant is not an exchange student, or is not seeking to satisfy primary criteria in Subclass 576 (AusAID or Defence Sector), or did not make his or her application using form 157E, the applicant must give, for each course proposed to be undertaken under the visa:

- (a) a certificate of enrolment; or
- (b) evidence that the applicant has been offered a place in the course.

**5A109 Requirement to give declaration**

In this Schedule, if:

- (a) an applicant is required to give a declaration for any purpose; and
- (b) the applicant is less than 18 years of age —

the requirement to give the declaration is to be read as a requirement for a parent of the applicant, or a person having custody of the applicant, to give the declaration on the applicant's behalf.

**Part 2 Subclass 570 (Independent ELICOS Sector)**

**Division 1 Requirements for assessment level 5**

**5A201 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

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### 5A202 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

### 5A203 Other requirements

The applicant must give evidence that:

- (a) the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) the applicant has the educational qualifications required by his or her education provider; and
- (c) satisfies the Minister that the applicant needs English language tuition:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

## **Division 2 Requirements for assessment level 4**

### **5A204 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (b) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider;
- (c) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (d) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

## 5A205 Financial capacity

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (2) In this clause:

***acceptable individual*** means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

***funds from an acceptable source*** means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) financial support (such as a scholarship) from:
  - (i) the government of a foreign country; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) a multilateral agency.

### **5A206 Other requirements**

The applicant must give evidence that:

- (a) the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) the applicant has the educational qualifications required by his or her education provider; and
- (c) satisfies the Minister that the applicant needs English language tuition:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

### **Division 3 Requirements for assessment level 3**

#### **5A207 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

#### **5A208 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(2) In this clause:

*acceptable individual* means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

*funds from an acceptable source* means one or more of the following:

- (a) a money deposit held by an acceptable individual;
- (b) a loan from the government of the applicant's home country;
- (c) financial support (such as a scholarship) from:
  - (i) the government of a foreign country; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) a multilateral agency.

#### **5A209 Other requirements**

The applicant must give evidence:

- (a) of his or her previous schooling, training or other study; and
- (b) that the ELICOS that he or she is to undertake will be of no more than 50 weeks duration.

### **Division 4 Requirements for assessment level 2**

#### **5A210 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A211 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a business; or
    - (v) a multilateral agency.

### **5A212 Other requirements**

The applicant must give evidence of his or her previous schooling, training or other study.



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## **Division 5 Requirements for assessment level 1**

### **5A213 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A214 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

## **Part 3 Subclass 571 (Schools Sector)**

### **Division 1 Requirements for assessment level 5**

#### **5A301 English language proficiency**

- (1) If the applicant is not an exchange student, the applicant must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.
- (2) If the applicant is an exchange student, the applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A302 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has a further \$12 000; and
- (c) the applicant has funds that are sufficient to meet the following expenses for the period of 12 months following the full period:
  - (i) living costs;
  - (ii) school costs; and
- (d) the applicant has funds that are sufficient to meet travel costs; and
- (e) the funds (including the amount mentioned in paragraph (b)) have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (f) the applicant's income before the accumulation day was sufficient to accumulate the funds.

### **5A303 Other requirements**

If the applicant is not an exchange student, the applicant must give evidence that:

- (a) he or she is to undertake schooling in Australia at the secondary level for at least 2 years; and
- (b) he or she has successfully completed secondary schooling to at least the year 9 level (or its equivalent); and
- (c) the principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or

- (iii) to perform the functions of his or her current position; and
- (d) at the time of making the application, he or she was less than 18 years old.

## **Division 2 Requirements for assessment level 4**

### **5A304 English language proficiency**

- (1) The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.
- (2) If the applicant:
  - (a) is not an exchange student; and
  - (b) must undertake an ELICOS (or other English language bridging course) before commencing his or her principal course in order to satisfy the English language proficiency requirements of the education provider;he or she must give evidence that the ELICOS (or other English language bridging course) will have a duration of no more than 30 weeks.

### **5A305 Financial capacity**

- (1) If the applicant is not an exchange student, the applicant must give evidence that:
  - (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period;
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) the applicant has a further \$12 000 from an acceptable source; and

- (c) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months following the full period:
  - (i) living costs;
  - (ii) school costs; and
- (d) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
- (e) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(2) In this clause:

***acceptable individual*** means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

***funds from an acceptable source*** means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) a loan from a financial institution;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a multilateral agency.

### **5A306 Other requirements**

If the applicant is not an exchange student, the applicant must give evidence that:

- (a) either:
  - (i) the principal course will be of no less than 16 months duration; or
  - (ii) the applicant has undertaken, outside Australia, a secondary school course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider with Australian teaching staff; and
- (b) he or she has successfully completed secondary schooling to at least the year 9 level (or its equivalent); and
- (c) at the time of making the application, he or she was less than 18 years old.

### **Division 3 Requirements for assessment level 3**

#### **5A307 English language proficiency**

- (1) The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.
- (2) If the applicant:
  - (a) is not an exchange student; and
  - (b) must undertake an ELICOS (or other English language bridging course) before commencing his or her principal course in order to satisfy the English language proficiency requirements of the education provider;

he or she must give evidence that the ELICOS (or other English language bridging course) will have a duration of no more than 40 weeks.

### 5A308 Financial capacity

- (1) If the applicant is not an exchange student, the applicant must give evidence that:
  - (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant, or by a person who is providing support to the applicant, for at least 3 consecutive months before the date of the application;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a multilateral agency.

### **5A309 Other requirements**

If the applicant is not an exchange student, the applicant must give evidence that:

- (a) either:
  - (i) the principal course will be of no less than 16 months duration; or
  - (ii) the applicant has undertaken, outside Australia, a secondary school course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider with Australian teaching staff; and
- (b) he or she has successfully completed secondary schooling to at least the year 6 level (or its equivalent); and
- (c) at the time of making the application, he or she was less than 18 years old.

## **Division 4 Requirements for assessment level 2**

### **5A310 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A311 Financial capacity**

- (1) If the applicant is not an exchange student, the applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and

- (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a business; or
    - (v) a multilateral agency.

#### **5A312 Other requirements**

If the applicant is not an exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence of his or her previous schooling, training or other study.

### **Division 5 Requirements for assessment level 1**

#### **5A313 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.



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**5A314 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

**5A315 Other requirements**

If the applicant is not an exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence of his or her previous schooling, training or other study.

**Part 4 Subclass 572 (Vocational  
Education and Training Sector)**

**Division 1 Requirements for assessment level 5**

**5A401 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

**5A402 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;

- (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

#### **5A403 Other requirements**

- (1) The applicant must give evidence:
  - (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
  - (b) that:
    - (i) he or she is enrolled in a vocational education and training course; or
    - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
    - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course; and
  - (c) that the applicant's principal course will assist the applicant, in the applicant's home country:
    - (i) to obtain employment; or
    - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
    - (iii) to perform the functions of his or her current position.
- (2) In this clause, *vocational education and training course* means a vocational education and training

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course that is at the diploma or advanced diploma level.

## **Division 2 Requirements for assessment level 4**

### **5A404 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 20 weeks duration;

- (d) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

#### **5A405 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(2) In this clause:

*acceptable individual* means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

*funds from an acceptable source* means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a corporation that:
    - (A) conducts commercial activities outside the country in which it is based; and
    - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
  - (v) a multilateral agency.

#### **5A406 Other requirements**

(1) The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) that:
  - (i) he or she is enrolled in a vocational education and training course; or

- (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
  - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course; and
- (c) that the applicant's principal course will:
- (i) enhance the development of the applicant's career; or
  - (ii) assist the applicant to obtain employment; or
  - (iii) assist the applicant to improve his or her prospects of promotion or of obtaining other employment.
- (2) In this clause, *vocational education and training course* means a vocational education and training course that is at the diploma or advanced diploma level.

### **Division 3 Requirements for assessment level 3**

#### **5A407 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and

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- (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;
  - (c) the applicant:
    - (i) is fully funded; and
    - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
    - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
  - (d) the applicant:
    - (i) was in Australia at the time of making the application; and
    - (ii) has, less than 2 years before the date of the application:
      - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
      - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
  - (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

## 5A408 Financial capacity

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause:

*acceptable individual* means one or more of the following:

  - (a) the applicant;
  - (b) the applicant's spouse;
  - (c) the applicant's parents;
  - (d) the applicant's grandparents.

*funds from an acceptable source* means one or more of the following:

  - (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
  - (b) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or



- (iv) a corporation that:
  - (A) conducts commercial activities outside the country in which it is based; and
  - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
- (v) a multilateral agency.

#### **5A409 Other requirements**

The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent); and
- (b) that:
  - (i) he or she is enrolled in a vocational education and training course; or
  - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
  - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course; and
- (c) that the applicant's principal course will:
  - (i) enhance the development of the applicant's career; or
  - (ii) assist the applicant to obtain employment; or
  - (iii) assist the applicant to improve his or her prospects of promotion or of obtaining other employment.

## Division 4 Requirements for assessment level 2

### 5A410 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### 5A411 Financial capacity

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;

- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider;  
or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a business; or
  - (v) a multilateral agency.

## **Division 5 Requirements for assessment level 1**

### **5A412 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A413 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

## **Part 5 Subclass 573 (Higher Education Sector)**

### **Division 1 Requirements for assessment level 5**

#### **5A501 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than

2 years before the date of the application, an Overall Band Score of at least 7.0.

#### **5A502 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

#### **5A503 Other requirements**

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

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## Division 2 Requirements for assessment level 4

### 5A504 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) has, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course

- that was conducted in Australia and in the English language; or
- (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

### **5A505 Financial capacity**

- (1) The applicant must give:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
- (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause:
- acceptable individual*** means one or more of the following:
- (a) the applicant;
  - (b) the applicant's spouse;
  - (c) the applicant's parents;
  - (d) the applicant's grandparents.

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*funds from an acceptable source* means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) a loan from a financial institution;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a corporation that:
    - (A) conducts commercial activities outside the country in which it is based; and
    - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
  - (v) a multilateral agency.

#### **5A506 Other requirements**

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent).

### **Division 3 Requirements for assessment level 3**

#### **5A507 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) has, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course



- that was conducted in Australia and in the English language; or
- (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

### **5A508 Financial capacity**

- (1) The applicant must give:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
- (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
- (a) a money deposit that the applicant or a person who is providing support to the applicant has held for at least 3 consecutive months before the date of the application;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;

- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider;  
or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a corporation that:
    - (A) conducts commercial activities outside the country in which it is based; and
    - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
  - (v) a multilateral agency.

#### **5A509 Other requirements**

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent);  
or
- (b) if the applicant provides a certificate of enrolment in a foundation course that is to be undertaken before the applicant's principal course — he or she has successfully completed secondary schooling to the year 11 level (or its equivalent).

### **Division 4 Requirements for assessment level 2**

#### **5A510 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

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### 5A511 Financial capacity

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a business; or
    - (v) a multilateral agency.

### **5A512 Other requirements**

The applicant must give evidence that he or she has the educational qualifications required by his or her proposed education provider.

## **Division 5 Requirements for assessment level 1**

### **5A513 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A514 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

### **5A515 Other requirements**

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

## **Part 6 Subclass 574 (Masters and Doctorate Sector)**

### **Division 1 Requirements for assessment level 5**

### **5A601 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than

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2 years before the date of the application, an Overall Band Score of at least 7.0.

#### **5A602 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

#### **5A603 Other requirements**

The applicant must give evidence that:

- (a) he or she has completed an undergraduate degree or its equivalent; and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

### **Division 2 Requirements for assessment level 4**

#### **5A604 English language proficiency**

- (1) An applicant is not required to provide evidence of English language proficiency if:

- (a) the application was made outside Australia; and
  - (b) the applicant provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
  - (c) the applicant will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:
- (a) the applicant:
    - (i) will not undertake an ELICOS before commencing his or her principal course; and
    - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
  - (b) the applicant:
    - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
    - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
  - (c) the applicant:
    - (i) is fully funded; and
    - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
    - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;

- (d) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa—studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

#### **5A605 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and

- (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(2) In this clause:

***acceptable individual*** means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

***funds from an acceptable source*** means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) a loan from a financial institution;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a corporation that:
    - (A) conducts commercial activities outside the country in which it is based; and
    - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
  - (v) a multilateral agency.



### 5A606 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

## Division 3 Requirements for assessment level 3

### 5A607 English language proficiency

- (1) An applicant is not required to provide evidence of English language proficiency if:
  - (a) the application was made outside Australia; and
  - (b) the applicant provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
  - (c) the applicant will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:
  - (a) the applicant:
    - (i) will not undertake an ELICOS before commencing his or her principal course; and
    - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
  - (b) the applicant:
    - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
    - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
  - (c) the applicant:
    - (i) is fully funded; and

- (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant:
- (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

#### **5A608 Financial capacity**

- (1) The applicant must give:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and

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- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
- (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a corporation that:
      - (A) conducts commercial activities outside the country in which it is based; and
      - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
    - (v) a multilateral agency.

### **5A609 Other requirements**

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

## **Division 4 Requirements for assessment level 2**

### **5A610 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A611 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;

- (b) a loan from a financial institution;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a business; or
  - (v) a multilateral agency.

#### **5A612 Other requirements**

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

### **Division 5 Requirements for assessment level 1**

#### **5A613 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

#### **5A614 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

### **5A615 Other requirements**

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

## **Part 7 Subclass 575 (Non-award Foundation/Other Sector)**

### **Division 1 Requirements for assessment level 5**

#### **5A701 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

#### **5A702 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

### **5A703 Other requirements**

The applicant must give:

- (a) evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) (despite paragraph 5A108 (a)) a certificate of enrolment in the principal course; and
- (c) evidence that the applicant's principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

## **Division 2 Requirements for assessment level 4**

### **5A704 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;

- (c) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 20 weeks duration;
- (d) the applicant:
  - (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

### **5A705 Financial capacity**

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and



- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause:
- acceptable individual*** means one or more of the following:
- (a) the applicant;
  - (b) the applicant's spouse;
  - (c) the applicant's parents;
  - (d) the applicant's grandparents.
- funds from an acceptable source*** means one or more of the following:
- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
  - (b) financial support (such as a scholarship) from:
    - (i) the applicant's proposed education provider; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) the government of a foreign country; or
    - (iv) a multilateral agency.

## **5A706 Other requirements**

The applicant must give:

- (a) evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) evidence that the applicant's principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or

- (ii) to improve his or her prospects of promotion or of obtaining other employment; or
- (iii) to perform the functions of his or her current position.

### **Division 3 Requirements for assessment level 3**

#### **5A707 English language proficiency**

The applicant must give evidence that one of the following applies:

- (a) the applicant:
  - (i) will not undertake an ELICOS before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
  - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
  - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;
- (c) the applicant:
  - (i) is fully funded; and
  - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
  - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;

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- (d) the applicant:
- (i) was in Australia at the time of making the application; and
  - (ii) had, less than 2 years before the date of the application:
    - (A) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in the English language; or
    - (B) as the holder of a student visa — studied towards a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in the English language;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

#### **5A708 Financial capacity**

- (1) The applicant must give:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the full period:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(2) In this clause:

*acceptable individual* means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse;
- (c) the applicant's parents;
- (d) the applicant's grandparents.

*funds from an acceptable source* means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least 6 consecutive months before the date of the application;
- (b) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider; or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a multilateral agency.

#### **5A709 Other requirements**

The applicant must give:

- (a) evidence that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent); and
- (b) evidence that the applicant's principal course will assist the applicant, in the applicant's home country:
  - (i) to obtain employment; or
  - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
  - (iii) to perform the functions of his or her current position.

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## Division 4 Requirements for assessment level 2

### 5A710 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### 5A711 Financial capacity

- (1) The applicant must give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (2) In this clause, *funds from an acceptable source* means one or more of the following:
  - (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;

- (d) financial support (such as a scholarship) from:
  - (i) the applicant's proposed education provider;  
or
  - (ii) the Commonwealth Government, or the government of a State or Territory; or
  - (iii) the government of a foreign country; or
  - (iv) a corporation that:
    - (A) conducts commercial activities outside the country in which it is based; and
    - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
  - (v) a multilateral agency.

## **Division 5 Requirements for assessment level 1**

### **5A712 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

### **5A713 Financial capacity**

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) travel costs.

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**Part 8 Subclass 576 (AusAID or Defence Sector)**

**Division 1 Requirements for assessment level 5**

**5A801 English language proficiency**

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

**5A802 Financial capacity**

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
  - (i) course fees;
  - (ii) living costs;
  - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least 5 consecutive years before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

**5A803 Other requirements**

The applicant must give evidence:

- (a) that he or she is:
  - (i) a person who has the support of the AusAID Minister; or
  - (ii) a person who has the support of the Defence Minister; and

- (b) of the expected duration of the applicant's study or training in Australia.

## **Division 2 Requirements for assessment level 2**

### **5A804 English language proficiency**

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider or training organisation.

### **5A805 Financial capacity**

- (1) Subject to subclause (2), if the applicant has the support of the AusAID Minister or the Defence Minister, the applicant must give evidence of that fact.
- (2) If required to do so in writing by the Minister, the applicant must also give:
  - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
    - (i) course fees;
    - (ii) living costs;
    - (iii) school costs; and
  - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
  - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
  - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.



- (3) In this clause, *funds from an acceptable source* means one or more of the following:
- (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
  - (b) a loan from a financial institution;
  - (c) a loan from the government of the applicant's home country;
  - (d) financial support (such as a scholarship) from:
    - (i) the government of a foreign country; or
    - (ii) the Commonwealth Government, or the government of a State or Territory; or
    - (iii) a business; or
    - (iv) a multilateral agency;
  - (e) support from the AusAID Minister or the Defence Minister.

#### **5A806 Other requirements**

The applicant must give evidence:

- (a) that he or she is:
  - (i) a person who has the support of the AusAID Minister; or
  - (ii) a person who has the support of the Defence Minister; and
- (b) of the expected duration of the applicant's study or training in Australia.

#### **[129] Schedule 8, subclause 8202 (1)**

*omit*

an AusAID student)

*insert*

an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa)

**[130] Schedule 8, paragraph 8202 (2) (b)**

*omit*

Subclass 560 visa

*insert*

Subclass 560 or 571 (Schools Sector) visa

**[131] Schedule 8, subclause 8202 (4)**

*omit*

an AusAID student

*insert*

an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa

**[132] Schedule 8, after subclause 8206 (2)**

*insert*

- (3) If the course in which the holder is enrolled has been gazetted for subregulation 1.44 (2), the holder must not change his or her enrolment.

**[133] Schedule 8, clause 8517**

*omit*

Subclass 560 visa

*insert*

Subclass 560, 570, 571, 572, 573, 574, 575 or 576 visa

**[134] Schedule 8, clause 8523**

*substitute*

8523 Each person who:

- (a) is a member of the family unit of the holder (being a spouse of the holder or an unmarried child of the holder who has not turned 18); and

- (b) has satisfied the secondary criteria; and
  - (c) holds a student visa because of paragraphs (a) and (b);
- must leave Australia not later than the time of departure of the holder.

**[135] Schedule 8, after clause 8533**

*insert*

- 8534 The holder will not be entitled to be granted a substantive visa, other than:
- (a) a protection visa; or
  - (b) a student visa the application for which must be made on form 157P; or
  - (c) a Subclass 497 (Graduate — Skilled) visa;
- while the holder remains in Australia.
- 8535 The holder will not be entitled to be granted a substantive visa, other than:
- (a) a protection visa; or
  - (b) a student visa the application for which must be made on form 157P; or
  - (c) a student visa that is granted to an applicant who satisfies the criterion in clause 570.230, 571.229, 572.229, 573.229, 574.229, 575.229 or 576.227 of Schedule 2;
- while the holder remains in Australia.

**[136] Schedule 9, Part 2, paragraph 1 (a)**

*substitute*

- (a) who belong to a class of persons specified in a Gazette Notice for the purposes of paragraph 2.40 (1) (n); and

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**Notes**

1. These Regulations amend 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, 220 (as amended by 1999 Nos. 259 and 321), 243, 259 (as amended by 2000 No. 259), 260 (as amended by 1999 No. 321), 321 and 325; 2000 Nos. 52, 62, 108, 192, 259 (as amended by 2000 No. 284) (item [4108] of Schedule 4 was disallowed by the Senate on 1 November 2000), 284 and 335; 2001 Nos. 27, 47, 86 and 142.
2. Notified in the *Commonwealth of Australia Gazette* on / 2001. 29 June