



# Migration Amendment Regulations 2005 (No. 2)<sup>1</sup>

**Select Legislative Instrument 2005 No. 76**

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I, JOHN LANDY, Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 11 May 2005

JOHN LANDY  
Administrator

By the Administrator's Command

AMANDA VANSTONE  
Minister for Immigration and Multicultural and Indigenous  
Affairs

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**1 Name of Regulations**

These Regulations are the *Migration Amendment Regulations 2005 (No. 2)*.

**2 Commencement**

These Regulations commence when they are registered.

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

Schedule 1 amends the *Migration Regulations 1994*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Regulation 2.07A, at the foot**

*insert*

*Note* Other provisions relating to the making of applications for bridging visas are regulations 2.10A, 2.10B and 2.20A.

**[2] After paragraph 2.12 (1) (ma)**

*insert*

(mb) Bridging R (Class WR);

**[3] After regulation 2.12**

*insert*

**2.12AA Refusal or cancellation of visa — prohibition on applying for other visa (Act, s 501E)**

For paragraph 501E (2) (b) of the Act, a Bridging R (Class WR) visa is specified.

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**[4] Subregulation 2.20 (1)***omit*

subregulations (2) to (11)

*insert*

subregulations (2) to (12)

**[5] After subregulation 2.20 (11)***insert*

- (12) This subregulation applies to a non-citizen if:
- (a) the non-citizen is in immigration detention; and
  - (b) the Minister is satisfied that the non-citizen's removal from Australia is not reasonably practicable at that time; and
  - (c) the Minister is satisfied that the non-citizen:
    - (i) has done everything possible to facilitate the non-citizen's removal from Australia; and
    - (ii) has not attempted to obstruct efforts to arrange and effect the non-citizen's removal from Australia; and
  - (d) the non-citizen has undertaken in writing:
    - (i) to cooperate fully with all efforts to arrange and effect the non-citizen's removal from Australia, including making himself or herself available for removal once removal has been arranged and leaving Australia when advised to do so; and
    - (ii) to abide by any conditions to which a visa granted to the non-citizen may be subject; and
  - (e) any visa applications made by the non-citizen have been finally determined; and
  - (f) there are no current proceedings in a court or tribunal:
    - (i) to which the non-citizen is a party; and
    - (ii) that raise an issue in connection with visas (including if a visa is not granted or has been cancelled), deportation, or removal of unlawful non-citizens.

**[6] After regulation 2.20**

*insert*

**2.20A Applications for Bridging R (Class WR) visas**

- (1) For subsection 46 (2) of the Act, a Bridging R (Class WR) visa is a prescribed class of visa.
- (2) An application for a Bridging R (Class WR) visa is taken to have been validly made by a person if:
  - (a) the person has been given an invitation in writing by the Minister, by one of the methods specified in section 494B of the Act, to apply for the visa; and
  - (b) the person indicates in writing to Immigration, not later than 7 days after the person is taken to have received that invitation, that he or she accepts the invitation.

*Note* See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

**[7] After paragraph 2.21 (2) (d)**

*insert*

- (da) Bridging R (Class WR) visa;

**[8] Schedule 1, after item 1306**

*insert*

**1307. Bridging R (Class WR)**

- (1) Application must be taken to have been made in accordance with subregulation 2.20A (2).
- (2) Visa application charge: Nil.
- (3) Subclasses:
  - 070 (Bridging (Removal Pending))

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[9] **Schedule 2, after Part 060**

*insert*

**Subclass 070                      Bridging (Removal Pending)**

**070.1      Interpretation**

070.111      In this Part:

*eligible non-citizen* has the meaning given in regulation 2.20.

*Note* See regulation 2.20A for how an application for a Bridging R (Class WR) visa is taken to have been validly made.

**070.2      Primary criteria**

*Note* All applicants must satisfy the primary criteria.

**070.21     Criteria to be met at time of application**

070.211      The applicant is an eligible non-citizen referred to in subregulation 2.20 (12) who is taken to have made an application in accordance with subregulation 2.20A (2).

**070.22     Criteria to be met at time of decision**

070.221      The applicant continues to satisfy the criterion set out in clause 070.211.

070.222      The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions to which the visa is subject.

070.223      The applicant satisfies public interest criteria 4001 and 4002.

**070.3      Secondary criteria: Nil.**

*Note* All applicants must satisfy the primary criteria.

**070.4      Circumstances applicable to grant**

070.411      The applicant must be in immigration detention when the visa is granted.

## **070.5 When visa is in effect**

070.511 Bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to remain in Australia; and
- (c) ceasing at the time when the Minister gives a notice in writing to the holder, by one of the methods specified in section 494B of the Act, stating that:
  - (i) the Minister is satisfied that the holder's removal from Australia is reasonably practicable; or
  - (ii) the holder has breached a condition to which the visa is subject.

## **070.6 Conditions**

070.611 Conditions 8303, 8401, 8506, 8513, 8514, 8541, 8542 and 8543 must be imposed.

## **070.7 Way of giving evidence**

070.711 No evidence need be given.

070.712 If evidence is to be given, to be given by visa label attached to a valid passport or an approved form.

## **[10] Schedule 8, after item 8540**

*insert*

8541 The holder:

- (a) must do everything possible to facilitate his or her removal from Australia; and
- (b) must not attempt to obstruct efforts to arrange and effect his or her removal from Australia.

8542 The holder must make himself or herself available for removal from Australia in accordance with instructions given to the holder by Immigration for the purpose of that removal.

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8543 The holder must attend at a place, date and time specified by Immigration in order to facilitate efforts to arrange and effect his or her removal from Australia.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).