



Migration Amendment Regulations 2005 (No. 3)¹

Select Legislative Instrument 2005 No. 133

I, PHILIP MICHAEL JEFFERY, 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 15 June 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

AMANDA VANSTONE
Minister for Immigration and Multicultural and Indigenous
Affairs

1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2005 (No. 3)*.

2 Commencement

These Regulations commence on 1 July 2005.

3 Amendment of *Migration Regulations 1994*

Schedules 1 to 17 amend the *Migration Regulations 1994*.

4 Transitional

- (1) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2005.
- (2) The amendments made by the items of Schedule 3 (other than item [1]) apply in relation to an application for a visa made on or after 1 July 2005.
- (3) The amendments made by items [1] to [4] of Schedule 4 apply in relation to:
 - (a) persons who enter Australia on or after 1 July 2005; and
 - (b) a person who:
 - (i) entered Australia before 1 July 2005; and
 - (ii) holds a Subclass 771 (Transit) visa, on and after 1 July 2005, for the purpose of signing on to a non-military ship as a member of the crew.
- (4) The amendment made by item [5] of Schedule 4 applies in relation to an application for a visa made on or after 1 July 2005.
- (5) The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 July 2005.

- (6) The amendments made by Schedule 7 apply in relation to:
 - (a) an application for a visa made on or after 1 July 2005; and
 - (b) an application for registration as a migration agent under Part 3 of the *Migration Act 1958*:
 - (i) made, but not decided by the Migration Agents Registration Authority, before 1 July 2005; or
 - (ii) made on or after 1 July 2005.
- (7) The amendments made by Part 1 of Schedule 8 apply in relation to an application for a visa made on or after 1 July 2005.
- (8) The amendments made by Part 2 of Schedule 8 apply in relation to:
 - (a) the refund of a first instalment of visa application charge; or
 - (b) the cancellation of a visa; that occurs on or after 1 July 2005.
- (9) The amendments made by Schedule 9 apply in relation to an application for a visa made on or after 1 July 2005.
- (10) The amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 July 2005.
- (11) The amendments made by Schedule 11 apply:
 - (a) for items 1, 4, 7, 10, 13 and 16 of that Schedule — 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 2005; and
 - (b) for the other items of that Schedule — in relation to an application for a visa made on or after 1 July 2005.
- (12) The amendments made by Schedule 12 apply in relation to an application for a visa made on or after 1 July 2005.

Regulation 4

- (13) The amendments made by Part 1 of Schedule 13 apply:
 - (a) for items [3], [5], [7], [10], [15], [17], [19], [21] and [23] of that Part — 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 2005; and
 - (b) for the other items of that Part — in relation to an application for a visa made on or after 1 July 2005.
- (14) The amendments made by Part 2 of Schedule 13 apply in relation to an application for a visa made on or after 1 July 2005.
- (15) The amendments made by Schedule 14 apply in relation to an application for a visa made on or after 1 July 2005.
- (16) The amendments made by Schedule 15 apply in relation to an application for a visa made on or after 1 July 2005.
- (17) The amendments made by Schedule 16 apply in relation to an application for a visa:
 - (a) made on or after 1 July 2005; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2005.

Note Transitional arrangements are not necessary in relation to:

- (a) Schedule 1; and
- (b) item [1] of Schedule 3; and
- (c) Schedule 5; and
- (d) Schedule 17.

Schedule 1 Amendments relating to foreign countries

(regulation 3)

[1] Regulation 1.03, after definition of *long-term spouse relationship*

insert

Macau means the Macau Special Administrative Region of the People's Republic of China.

[2] Regulation 1.03, note 2

substitute

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.

[3] Subregulation 2.25A (1), note

substitute

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.

[4] Subregulation 5.36 (1), note

substitute

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.

[5] Schedule 1, paragraph 1224A (3) (a), note

substitute

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.

[6] Schedule 2, subclause 417.211 (3), note

substitute

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.

Schedule 2 Amendments relating to Class DD, DE and UX visas

(regulation 3)

[1] **Subregulation 2.07AG (1)**

omit

Class DD or Class DE visa.

insert

Class DD, Class DE or Class UX visa.

[2] **After regulation 2.10B**

insert

2.10C Time of making Internet application

For these Regulations, an Internet application is taken to have been made:

- (a) if Australian Eastern Standard Time is in effect in Australia — at the time, identified using Australian Eastern Standard Time, that corresponds to the time at which the Internet application is made; or
- (b) if Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory is in effect in Australia — at the time, identified using Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made.

[3] Schedule 1, paragraph 1128 (3) (b), at the foot

insert

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

[4] Schedule 1, subitem 1128BA (1)

substitute

- (1) Forms: 47SK and 47SK (Internet).

[5] Schedule 1, paragraph 1128BA (3) (a)

omit

[6] Schedule 1, paragraph 1128BA (3) (c)

substitute

- (c) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (i) all persons included in the application have 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 this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

[7] Schedule 1, paragraphs 1128BA (3) (h) and (i)

substitute

(h) Application must be made:

- (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
- (ii) by having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
- (iii) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (i) Applicant seeking to satisfy the primary criteria must make a declaration that the applicant or the applicant's spouse (if the spouse has made a combined application with the applicant) is a person to whom paragraphs (j) and (ja) apply.

[8] Schedule 1, subparagraph 1128BA (3) (j) (iv)

substitute

- (iv) has applied for an assessment of the former overseas student's skills for the nominated skilled occupation by a relevant assessing authority.

[9] Schedule 1, paragraph 1128BA (3) (ja)

substitute

- (ja) This paragraph applies to an applicant who is a former overseas student for paragraph (j) if:
 - (i) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a

- degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of at least 2 years of full-time study at that institution while the applicant was present in Australia;
- (B) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (ii) each of the following sub-subparagraphs applies in relation to the applicant:
- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of less than 2 years of full-time study at that institution while the applicant was present in Australia;
 - (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, while the applicant was present in Australia;
 - (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of a total of at least 2 years of full-time study while the applicant was present in Australia;
 - (D) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;

- (E) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English.

[10] Schedule 1, paragraphs 1128BA (3) (k), (l) and (m)

substitute

(k) Application:

- (i) made using form 47SK must be accompanied by a sponsorship form 40 completed by a person who is the sponsor of the applicant; or
 - (ii) made using form 47SK (Internet) must be accompanied by a sponsorship form 40 (Internet) completed by a person who is the sponsor of the applicant.
- (l) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant's 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 satisfy 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 made by an applicant seeking to satisfy the criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant's sponsor:
- (i) is resident in an area specified in a 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 when the application is made (except for short absences for the purposes of recreation or business).

[11] Schedule 1, paragraphs 1128BA (3) (p) and (pa)

substitute

- (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, 575 or 576 visa granted to the applicant for 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, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (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

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- (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.
- (pa) Application by an applicant who is, or was at any time, a member of the family unit of a person:
- (i) who was the holder of a visa of a kind mentioned in paragraph (p); and
 - (ii) to whom subparagraph (p) (ii) applies;
- must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.

[12] Schedule 1, subitem 1128CA (1)

substitute

- (1) Forms: 47SK and 47SK (Internet).

[13] Schedule 1, paragraph 1128CA (3) (a)

omit

[14] Schedule 1, paragraphs 1128CA (3) (c) and (d)

substitute

- (c) Application must be made:
- (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or

- (ii) by having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
- (iii) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (d) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have 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 this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

[15] Schedule 1, paragraph 1128CA (3) (k)

substitute

- (k) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

[16] Schedule 1, paragraphs 1128CA (3) (l), (m) and (ma)

substitute

- (l) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that:
- (i) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of at least 2 years of full-time study at that institution while the applicant was present in Australia;
 - (C) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (ii) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of less than 2 years of full-time study at that institution while the applicant was present in Australia;

- (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, while the applicant was present in Australia;
 - (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of a total of at least 2 years of full-time study while the applicant was present in Australia;
 - (D) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;
 - (E) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) 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, 575 or 576 visa granted to the applicant for 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, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (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

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- (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.
 - (ma) Application by an applicant who is, or was at any time, a member of the family unit of a person:
 - (i) who was the holder of a visa of a kind mentioned in paragraph (m); and
 - (ii) to whom subparagraph (m) (ii) applies;must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.

[17] Schedule 1, paragraph 1212A (3) (ka)

substitute

- (ka) Applicant who is, or was at any time, a member of the family unit of a person:
 - (i) who was the holder of a visa of a kind mentioned in paragraph (k); and
 - (ii) to whom subparagraph (k) (ii) applies;must have spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.

[18] Schedule 1, subitem 1218A (1)

substitute

- (1) Forms: 47SK and 47SK (Internet).

[19] Schedule 1, paragraphs 1218A (3) (a) and (b)

substitute

- (b) Application must be made:
- (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) by having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
 - (iii) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

[20] Schedule 1, paragraph 1218A (5) (e)

substitute

- (e) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (i) all persons included in the application have 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 this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and

- (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

[21] Schedule 1, sub-subparagraph 1218A (5) (f) (i) (B)

substitute

(B) if the applicant:

- (I) has a written invitation from the Minister under regulation 2.08DA; and
- (II) was less than 45 years old when the application for a Skilled — Independent (Migrant) (Class BN) visa was made; and
- (III) has applied for the visa in accordance with regulation 2.08DA;

accompany his or her application with a declaration by the applicant that he or she has received such an invitation; and

[22] Schedule 1, paragraphs 1218A (5) (h), (i), (j), (k) and (l)

substitute

(h) Application by the applicant seeking to satisfy the primary criteria must be accompanied by a declaration by that applicant that:

(i) each of the following sub-subparagraphs applies in relation to the applicant:

- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a

- result of at least 2 years of full-time study at that institution while the applicant was present in Australia;
- (B) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (ii) each of the following sub-subparagraphs applies in relation to the applicant:
- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of less than 2 years of full-time study at that institution while the applicant was present in Australia;
- (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, while the applicant was present in Australia;
- (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of a total of at least 2 years of full-time study while the applicant was present in Australia;
- (D) if 1 of the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) is a doctoral degree — the doctoral degree was completed as a result of a total of at least 2 years of full-time study while the applicant was present in Australia;

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- (E) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;
 - (F) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English.
- (i) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
 - (j) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant is sponsored by a State or Territory government agency.
 - (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, 575 or 576 visa granted to the applicant for 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, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (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.
- (l) Application by an applicant who is, or was at any time, a member of the family unit of a person:
 - (i) who was the holder of a visa of a kind mentioned in paragraph (k); and
 - (ii) to whom subparagraph (k) (ii) applies;must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.

[23] Schedule 1, subparagraph 1218A (6) (a) (i)

substitute

- (i) must accompany his or her application with a declaration by the applicant that:
 - (A) he or she is at least 18 years old and less than 45 years old; or
 - (B) if the applicant:
 - (I) has a written invitation from the Minister under regulation 2.08DA; and
 - (II) was less than 45 years old when the application for a Skilled — Independent (Migrant) (Class BN) visa was made; and

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- (III) has applied for the visa in accordance with regulation 2.08DA;
he or she has received such an invitation; and

[24] Schedule 1, paragraphs 1218A (6) (b), (c) and (d)

substitute

- (b) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that a relevant assessing authority has assessed the skills of the applicant for his or her nominated skilled occupation.
- (c) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant is sponsored by a State or Territory government agency.

[25] Schedule 1, paragraph 1223A (3) (af), at the foot

insert

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

[26] Schedule 1, paragraph 1223A (3) (ca), at the foot

insert

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

[27] Schedule 1, subitem 1301 (1)

after

47SK,

insert

47SK (Internet),

[28] Schedule 1, subitem 1301 (1)

after

1096

insert

, 1182

[29] Schedule 2, subclause 495.211 (1)

substitute

(1) Subject to subclause (2), the Minister is satisfied that the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified in a Gazette Notice as available for the skilled occupation — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day when the application was made; or
- (b) if 40 or 50 points are specified in a Gazette Notice as available for the skilled occupation — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day when the application was made.

[30] Schedule 2, clause 495.213

substitute

495.213 If:

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

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- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the Minister is satisfied that the applicant has complied with the conditions of that visa.
- 495.214 If a declaration was required to be made for paragraph 1218A (5) (i) of Schedule 1, the Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- 495.215 If a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1, the Minister is satisfied that 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 sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1.
- 495.216 If a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1, the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.217 If a declaration was made for sub-subparagraph 1218A (5) (f) (i) (B) or subparagraph 1218A (6) (a) (i) of Schedule 1, the Minister is satisfied that the applicant meets the requirements for which the declaration was made.
- 495.218 If a declaration was required to be made for paragraph 1218A (5) (h), (k) or (l) of Schedule 1, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.
- 495.219 If a declaration was required to be made for paragraph 1218A (6) (b) of Schedule 1, the Minister is satisfied that a relevant assessing authority has assessed the skills of the applicant for his or her nominated skilled occupation.

495.219A The Minister is satisfied that the applicant is sponsored by a State or Territory government agency.

[31] Schedule 2, clause 495.224

substitute

495.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 495.21, or to meet the requirements of item 1218A of Schedule 1, was false or misleading in a material particular.

[32] Schedule 2, paragraph 495.227 (2) (b)

substitute

(b) lodged at:

- (i) the post office box address specified in a Gazette Notice for subparagraph 1218A (3) (b) (i) of Schedule 1; or
- (ii) the address specified in a Gazette Notice for subparagraph 1218A (3) (b) (ii) of Schedule 1.

[33] Schedule 2, after clause 495.231

insert

495.232 A relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.

495.233 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[34] Schedule 2, after clause 495.312*insert*

- 495.313 If a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1, the Minister is satisfied that 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 sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1.
- 495.314 If a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.315 If a declaration was required to be made for paragraph 1218A (5) (k) or (l) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[35] Schedule 2, after clause 495.325*insert*

- 495.326 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[36] Schedule 2, Subdivision 880.21*substitute***880.21 Criteria to be satisfied at time of application**

- 880.211 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- 880.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 880.213 The Minister is satisfied that 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 sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.
- 880.214 The Minister is satisfied that the applicant meets the requirements of paragraph 1128CA (3) (l) of Schedule 1.
- 880.215 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128CA (3) (l) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.
- 880.216 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[37] Schedule 2, clause 880.224*substitute*

880.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 880.21, or to meet the requirements of item 1128CA of Schedule 1, was false or misleading in a material particular.

[38] Schedule 2, after clause 880.229*insert*

880.230 A relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.

880.231 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[39] Schedule 2, Subdivision 880.31*substitute***880.31 Criteria to be satisfied at time of application**

880.311 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

880.312 The Minister is satisfied that 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 sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.

880.313 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[40] Schedule 2, after clause 880.324

insert

880.325 If an applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[41] Schedule 2, Subdivision 881.21

substitute

881.21 Criteria to be satisfied at time of application

881.211 The Minister is satisfied that the applicant, or the applicant's spouse, meets the requirements for which a declaration was made for paragraph 1128BA (3) (i) of Schedule 1.

881.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

881.213 The Minister is satisfied that 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 sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.

-
- 881.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant, or the applicant's spouse, in his or her application.
- 881.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraph 1128BA (3) (l) of Schedule 1.
- 881.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[42] Schedule 2, clause 881.226

substitute

- 881.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 881.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.

[43] Schedule 2, after clause 881.231

insert

- 881.232 A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse, as suitable for his or her nominated skilled occupation.
- 881.233 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[44] Schedule 2, after clause 881.311

insert

- 881.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the

12 months immediately before the day when the application is made.

- 881.313 The Minister is satisfied that 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 sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 881.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[45] Schedule 2, after clause 881.325

insert

- 881.326 If the applicant is at least 16 years old, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[46] Schedule 2, Subdivision 882.21

substitute

882.21 Criteria to be satisfied at time of application

- 882.211 The Minister is satisfied that the applicant, or the applicant's spouse, meets the requirements for which a declaration was made for paragraph 1128BA (3) (i) of Schedule 1.
- 882.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

-
- 882.213 The Minister is satisfied that 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 sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 882.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant, or the applicant's spouse, in his or her application.
- 882.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraphs 1128BA (3) (l) and (m) of Schedule 1.
- 882.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[47] Schedule 2, clause 882.226

substitute

- 882.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 882.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.

[48] Schedule 2, after clause 882.232

insert

- 882.233 A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse, as suitable for his or her nominated skilled occupation.

882.234 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

[49] Schedule 2, after clause 882.311

insert

882.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

882.313 The Minister is satisfied that 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 sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.

882.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.

[50] Schedule 2, after clause 882.325

insert

882.326 If the applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

Schedule 3 Amendments relating to Investor Retirement visas

(regulation 3)

[1] Schedule 1, note after the heading

omit everything after

47.

[2] Schedule 1, after item 1212A

insert

1212B. Investor Retirement (Class UY)

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$170.
 - (b) Second instalment (payable before grant of visa): \$8 000.
- (3) Other:
 - (a) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service, or otherwise hand-delivered, to the address specified in a Gazette Notice for this subparagraph.
 - (b) Applicant may be in or outside Australia, but not in immigration clearance.
 - (c) Application by a person claiming to be the spouse of a person who is an applicant for an Investor Retirement (Class UY) visa may be made at the same time and place as, and combined with, the application by that person.

- (d) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 405 visa must:
- (i) be sponsored by an appropriate regional authority; and
 - (ii) provide, with the application, form 1249 signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
 - (iii) be at least 55 years old, unless:
 - (A) the applicant is the holder of an Investor Retirement (Class UY) visa; or
 - (B) the last substantive visa held by the applicant since last entering Australia was an Investor Retirement (Class UY) visa.

Note For *appropriate regional authority*, see regulation 1.03.

- (4) Subclasses:
405 (Investor Retirement)

[3] Schedule 1, paragraphs 1217 (3) (a) and (b)

substitute

- (a) Application must be made by:
- (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service, or otherwise hand-delivered, to the address specified in a Gazette Notice for this subparagraph.
- (b) Applicant may be in or outside Australia, but not in immigration clearance.

[4] Schedule 1, after paragraph 1217 (3) (c)

insert

- (d) Application may be made on or after 1 July 2005 by a person only if:
- (i) the person is the holder of a Subclass 410 visa; or

- (ii) the last substantive visa held by the person since last entering Australia was a Subclass 410 visa; or
- (iii) the person claims to be the spouse of a person mentioned in subparagraph (i) or (ii).

[5] Schedule 2, after Part 310

insert

Subclass 405 Investor Retirement

405.1 Interpretation

405.111 In this Part:

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

Note For *appropriate regional authority*, see regulation 1.03.

405.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

405.21 Criteria to be satisfied at time of application

Note 1 No criteria to be satisfied at time of application if applicant is outside Australia at that time.

Note 2 The requirements for making a valid application for an Investor Retirement (Class UY) visa are set out in item 1212B of Schedule 1.

405.211 If the applicant is in Australia, the applicant:

- (a) must be the holder of a substantive visa; or
- (b) must:
 - (i) have held a substantive visa since last entering Australia; and
 - (ii) satisfy Schedule 3 criteria 3002, 3004 and 3005.

405.22 Criteria to be satisfied at time of decision

- 405.221 The family unit of the applicant does not include:
- (a) if the applicant has a spouse — any other person dependent on the applicant or the applicant's spouse; or
 - (b) if the applicant does not have a spouse — any person dependent on the applicant.
- 405.222 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 405.223 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 405.224 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 405.225 The Minister may waive the requirement of clause 405.224 if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 405.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 405.227 (1) This clause applies to an applicant other than an applicant to whom clause 405.228 applies.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the Gazette Notice for item 6A1001 of Schedule 6A:

- (a) the net value of the applicant's assets, or (if the applicant has a spouse) the combined net value of the assets of the applicant and of his or her spouse, that are available for transfer, and capable of being transferred, to Australia is at least AUD500 000; and
- (b) the applicant has access to, or (if the applicant has a spouse) the applicant and his or her spouse collectively have access to, an annual net income of at least AUD50 000; and
- (c) the applicant has made a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the Gazette Notice for item 6A1001 of Schedule 6A:

- (a) the net value of the applicant's assets, or (if the applicant has a spouse) the combined net value of the assets of the applicant and of his or her spouse, that are available for transfer, and capable of being transferred, to Australia is at least AUD750 000; and
- (b) the applicant has access to, or (if the applicant has a spouse) the applicant and his or her spouse collectively have access to, an annual net income of at least AUD65 000; and
- (c) the applicant has made a designated investment of an amount of at least AUD750 000, in the applicant's name or in the names of the applicant and his or her spouse, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being the assets mentioned in paragraph (2) (a) or (3) (a), any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded):

- (a) are legally owned and lawfully acquired by:
 - (i) the applicant; or
 - (ii) the applicant's spouse; or
 - (iii) the applicant and his or her spouse together; and
- (b) other than resources relating to inheritance or to the applicant's or the spouse's superannuation or pension — have been held by the applicant, the applicant's spouse or the applicant and his or her spouse together, throughout the 2 years immediately before the application for an Investor Retirement (Class UY) visa is made.

(5) The Minister is satisfied that the applicant and his or her spouse (if any) have adequate health insurance cover in Australia for the period of:

- (a) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and
- (b) if the applicant has a spouse — the spouse's intended stay in Australia as the holder of a Subclass 405 visa.

(6) The applicant and the applicant's spouse (if any) satisfy public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014.

- 405.228 (1) This clause applies to an applicant if:
- (a) the applicant is the holder of a Subclass 405 visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the Gazette Notice for item 6A1001 of Schedule 6A:

- (a) the applicant has access to, or (if the applicant has a spouse) the applicant and his or her spouse collectively have access to, an annual net income of at least AUD50 000; and
- (b) the applicant has made and maintained a designated investment of an amount of at least AUD250 000, in the applicant's name or in the names of the applicant and his or her spouse, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the Gazette Notice for item 6A1001 of Schedule 6A:

- (a) the applicant has access to, or (if the applicant has a spouse) the applicant and his or her spouse collectively have access to, an annual net income of at least AUD65 000; and
- (b) the applicant has made and maintained a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded) are legally owned and lawfully acquired by:

- (a) the applicant; or
- (b) the applicant's spouse; or
- (c) the applicant and his or her spouse together.

- (5) The Minister is satisfied that the applicant and his or her spouse (if any):
- (a) have had adequate health insurance cover in Australia for the period of:
 - (i) the applicant's stay in Australia as the holder of a Subclass 405 visa; and
 - (ii) if the applicant has a spouse — the spouse's stay in Australia as the holder of a Subclass 405 visa; and
 - (b) continue to have adequate health insurance cover in Australia for the period of:
 - (i) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and
 - (ii) if the applicant has a spouse — the spouse's intended stay in Australia as the holder of a Subclass 405 visa.
- (6) The applicant and the applicant's spouse (if any) satisfy public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.
- (7) The applicant and the applicant's spouse (if any) are free from tuberculosis.
- (8) The applicant and the applicant's spouse (if any) are free from a disease or condition that is, or may result in the applicant or the applicant's spouse being, a threat to public health in Australia or a danger to the Australian community.
- (9) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.

405.3 Secondary criteria

Note These criteria must be satisfied by any applicant who is a member of the family unit of a person who satisfies the primary criteria.

405.31 Criteria to be satisfied at time of application

405.311 The applicant is the spouse of a person who satisfies the primary criteria for the grant of a Subclass 405 visa.

405.312 If the applicant is outside Australia and the application is made separately from that of the applicant's spouse:

- (a) the spouse is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia with the spouse.

405.32 Criteria to be satisfied at time of decision

405.321 The applicant continues to be the spouse of a person who, having satisfied the primary criteria, is the holder of a Subclass 405 visa.

405.322 The applicant continues to satisfy the criteria in clause 405.312.

405.323 The family unit of the applicant does not include any person (other than the applicant's spouse) dependent on the applicant or the applicant's spouse.

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

405.325 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

405.326 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

- 405.327 The Minister may waive the requirement of clause 405.326 if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 405.328 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 405.329 (1) This clause applies to an applicant other than an applicant to whom clause 405.330 applies.
- (2) The Minister is satisfied that the applicant has adequate health insurance cover in Australia for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.
- (3) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014.
- 405.330 (1) This clause applies to an applicant if:
- (a) the applicant is the holder of a Subclass 405 visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.
- (2) The Minister is satisfied that the applicant:
- (a) has had adequate health insurance cover in Australia for the period of the applicant's stay in Australia as the holder of a Subclass 405 visa; and
 - (b) continues to have adequate health insurance cover in Australia for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.
- (3) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.
- (4) The applicant is free from tuberculosis.

(5) The applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

(6) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.

405.4 Circumstances applicable to grant

405.411 If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

405.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

405.5 When visa is in effect

405.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

405.6 Conditions

405.611 Conditions 8104, 8501 and 8516 must be imposed.

405.612 Any 1 or more of conditions 8301, 8303, 8502, 8522, 8525 and 8526 may be imposed.

405.7 Way of giving evidence

405.711 No evidence need be given.

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

[6] Schedule 2, Division 410.1

omit

[7] Schedule 2, note before clause 410.211

substitute

Note No criteria to be satisfied at time of application if applicant is outside Australia at that time.

[8] Schedule 2, subclauses 410.211 (1) and (2)

substitute

410.211 (1) If the applicant is in Australia, the applicant meets the requirements of subclause (2) or (3).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of a Retirement (Temporary) (Class TQ) visa.

[9] Schedule 2, paragraph 410.211 (3) (b)

omit everything after

was

insert

a Retirement (Temporary) (Class TQ) visa; and

[10] Schedule 2, subclause 410.211 (4)

omit

[11] Schedule 2, paragraph 410.221 (1) (b)

omit

(9).

insert

(8).

[12] Schedule 2, subclause 410.221 (5)

omit

the application was made outside Australia and

-
- [13] Schedule 2, subclause 410.221 (6)**
omit
the application was made in Australia,
insert
the applicant is in Australia,
- [14] Schedule 2, subclause 410.221 (8)**
omit everything before paragraph (a), insert
(8) The applicant satisfies this subclause if:
- [15] Schedule 2, subclauses 410.221 (9) and (10)**
omit
- [16] Schedule 2, clause 410.312**
omit
the application is made outside Australia
insert
the applicant is outside Australia
- [17] Schedule 2, subclause 410.321 (3)**
omit everything before paragraph (a), insert
(3) The applicant satisfies this subclause if:
- [18] Schedule 2, subclause 410.321 (4)**
omit

[19] Schedule 2, subclause 410.321 (5)

omit

the application was made in Australia,

insert

the applicant is in Australia,

[20] Schedule 2, subclause 410.321 (6)

omit

the application is made outside Australia and

[21] Schedule 2, clauses 410.411 and 410.412

substitute

410.411 If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

410.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

[22] Schedule 2, paragraph 410.511 (a)

omit everything after

410.321 (1) (a))

insert

— until a date specified by the Minister; or

[23] Schedule 2, paragraph 410.511 (b)

omit

expired; or

insert

expired.

[24] Schedule 2, paragraph 410.511 (c)

omit

[25] Schedule 4, Part 2, before item 4051

insert

4050 405 (Investor Retirement) 8104

Schedule 4 Amendments relating to special purpose visas

(regulation 3)

**[1] Regulation 1.03, definition of *member of the crew*,
paragraph (c)**

omit

ship.

insert

ship; or

**[2] Regulation 1.03, definition of *member of the crew*,
after paragraph (c)**

insert

- (d) a person who arrives in Australia for the purpose of signing on to a non-military ship as a member of the crew of the ship.

[3] Paragraph 2.40 (6) (c)

substitute

(c) either:

- (i) the passport and the document are on the ship at the time the ship enters Australia in accordance with subparagraph (a) (i); or
- (ii) at the time the person is signed on to the ship in Australia, in accordance with subregulation (6A), the person:
 - (A) is a lawful non-citizen in the migration zone;
and

-
- (B) has been issued with:
- (I) a passport that is in force; and
 - (II) a document that identifies the person as a seafarer employed on the ship.

[4] After subregulation 2.40 (6)

insert

- (6A) For paragraph (6) (c), a person is taken to have been signed on to a ship when an officer (within the meaning of section 5 of the Act) confirms that:
- (a) the person is recorded in the crew list attachment sheet, or supernumerary crew list attachment sheet, of the ship; and
 - (b) the person has been issued with:
 - (i) a passport that is in force; and
 - (ii) a document that identifies the person as a seafarer employed on the ship.

Note A crew list attachment sheet and a supernumerary crew list attachment sheet are documents that are appended to a ship's crew list or supernumerary crew list.

[5] Schedule 2, paragraph 771.212 (b)

substitute

- (b) to pass through Australia for the purpose of signing on to a non-military ship (other than a ship that is being imported into Australia) as a member of the crew.

Schedule 5 Amendment relating to reporting requirements for international cargo ships

(regulation 3)

[1] After regulation 3.13B

insert

3.13C Information about passengers and crew to be given before arrival of international cargo ship

- (1) For subsection 245I (1) of the Act, an international cargo ship is a kind of ship to which Division 12B of the Act applies.

Note The operator of a ship to which Division 12B applies that is due to arrive at a port in Australia from a place outside Australia must, before the arrival of the ship, give the Department a report that includes particular information about passengers and crew aboard the ship (see section 245L of the Act).

- (2) In this regulation:

international cargo ship:

- (a) means a civilian vessel that:
- (i) has a gross tonnage of at least 500 tons; and
 - (ii) either:
 - (A) is used wholly or principally to provide sea transportation of cargo; or
 - (B) is used to provide services to ships or shipping; and
- (b) does not include any of the following:
- (i) an international passenger cruise ship within the meaning of subregulation 3.13B (2);
 - (ii) a fishing vessel;
 - (iii) a fishing support vessel;
 - (iv) a pleasure craft.

Schedule 6 Amendments relating to Subclass 456 Business (short stay) visas

(regulation 3)

[1] Subregulation 2.07AA (1)

omit

[2] Schedule 1, paragraph 1223A (1) (a)

substitute

- (a) Subject to paragraph (c), if the applicant seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or less: 456.

[3] Schedule 1, subparagraph 1223A (2) (a) (i)

omit

subparagraphs (iv),

insert

subparagraphs

[4] Schedule 1, subparagraph 1223A (2) (a) (iv)

omit

[5] Schedule 1, sub-subparagraph 1223A (2) (a) (v) (A)

omit

subparagraph (i), (ii), (iii) or (iv);

insert

subparagraph (i), (ii) or (iii);

[6] Schedule 1, paragraph 1223A (3) (a)*substitute*

- (a) In the case of an applicant who seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of 3 months or less:
- (i) the applicant must be outside Australia; and
 - (ii) the application must be made outside Australia.

[7] Schedule 1, paragraph 1223A (3) (ac)*omit***[8] Schedule 2, clauses 456.111 and 456.112, including the note***substitute**Note* No interpretation provisions specific to this Part.

Schedule 7 **Amendment relating to Australian permanent residents**

(regulation 3)

[1] **Regulation 1.03, definition of *Australian permanent resident***

substitute

Australian permanent resident means:

- (a) in relation to an applicant for a Return (Residence) (Class BB) visa or a Resident Return (Temporary) (Class TP) visa — a non-citizen who is the holder of a permanent visa; or
- (b) in any other case (other than in the case of an applicant for registration as a migration agent under Part 3 of the Act) — a non-citizen who, being usually resident in Australia, is the holder of a permanent visa.

Note For paragraph 294 (1) (b) of the Act, regulation 6C of the *Migration Agents Regulations 1998* specifies the persons who are ***Australian permanent residents*** for the purposes of an applicant for registration as a migration agent under Part 3 of the Act.

Schedule 8 Amendments relating to tourist visas

(regulation 3)

Part 1 Amendments relating to applications for visas

[1] After paragraph 2.07AO (3) (r)

insert

(ra) a Subclass 676 (Tourist) visa; and

[2] After paragraph 2.12BF (1) (q)

insert

(qa) a Subclass 676 (Tourist) visa;

[3] Sub-subparagraph 2.15 (1) (b) (ii) (A)

substitute

(A) in the case of an application for a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa — 7 days after the applicant is notified of the invitation; or

[4] Subparagraph 2.15 (3) (b) (i)

substitute

(i) in the case of an application for a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa — 7 days after the applicant is notified of the invitation; or

[5] Paragraph 2.21B (1) (b)

omit

a Long Stay (Visitor) (Class TN) visa;

insert

a Tourist (Class TR) visa;

[6] Paragraph 3.03 (3) (g)

omit

(5),

[7] Subregulation 3.03 (5)

omit

[8] Subregulation 4.23 (1)

omit

a Long Stay (Visitor) (Class TN) visa or a Short Stay (Visitor) (Class TR) visa

insert

a Long Stay (Visitor) (Class TN) visa, a Short Stay (Visitor) (Class TR) visa or a Tourist (Class TR) visa

[9] Schedule 1, item 1214

omit

[10] Schedule 1, item 1218

substitute

1218. Tourist (Class TR)

(1) Form:

(a) If the applicant is in Australia: 601 or 601E.

- (b) If the applicant:
 - (i) is a citizen of PRC; and
 - (ii) is in PRC; and
 - (iii) is intending to travel to Australia as a member of a tour organised by a travel agent specified in a Gazette Notice for this subparagraph; and
 - (iv) makes the application at a diplomatic or consular office maintained by, or on behalf of, the Commonwealth in PRC: 48G.
 - (c) If the applicant is outside Australia, and paragraph (b) does not apply: 48, 48 (Internet), 48N or 48R.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who applies in the course of acting as a representative of a foreign government: Nil
 - (ii) In any other case:
 - (A) if the applicant is outside Australia at the time of application: \$65
 - (B) if the applicant is in Australia at the time of application: \$200.
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) If the applicant is in Australia, application must be made in Australia.
 - (b) If the applicant is outside Australia, the application must be made outside Australia.
 - (c) If the application is made outside Australia (not being an application on form 48 (Internet)), application must be made at:
 - (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 Tourist (Class TR) visas.

-
- (d) Application may be made on form 48 (Internet) if, and only if the applicant is in a class of persons specified in a Gazette Notice for this paragraph.
- (e) Application may be made on form 601E if, and only if the applicant is the holder of:
- (i) a Subclass 676 (Tourist (Short Stay)) visa; or
 - (ii) a Subclass 676 (Tourist) visa; or
 - (iii) a Subclass 976 (Electronic Travel Authority (Visitor)) visa.
- (f) 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; or
 - (C) a Tourist (Class TR) visa.
- (g) Application (not being an 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.
- (4) Subclasses:
676 (Tourist)

[11] Schedule 1, subitem 1222 (5), definition of *relevant visa*, after paragraph (m)

insert

- (ma) Tourist (Class TR) visa;

[12] Schedule 2, sub-subparagraph 411.211 (b) (i) (E)

omit

(Class TU); or

insert

(Class TU);

[13] Schedule 2, after sub-subparagraph 411.211 (b) (i) (E)

insert

(F) Tourist (Class TR); or

[14] Schedule 2, sub-subparagraph 415.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

[15] Schedule 2, after sub-subparagraph 415.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[16] Schedule 2, sub-subparagraph 416.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

[17] Schedule 2, after sub-subparagraph 416.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[18] Schedule 2, sub-subparagraph 418.211 (b) (i) (E)

omit

(Class TU); or

insert

(Class TU);

-
- [19] **Schedule 2, after sub-subparagraph 418.211 (b) (i) (E)**
insert
(F) Tourist (Class TR); or
- [20] **Schedule 2, subclause 418.231**
after
Short Stay (Visitor) (Class TR),
insert
Tourist (Class TR),
- [21] **Schedule 2, sub-subparagraph 419.211 (b) (i) (D)**
omit
(Class TR); or
insert
(Class TR);
- [22] **Schedule 2, after sub-subparagraph 419.211 (b) (i) (D)**
insert
(E) Tourist (Class TR); or
- [23] **Schedule 2, sub-subparagraph 420.211 (b) (i) (D)**
omit
(Class TR); or
insert
(Class TR);
- [24] **Schedule 2, after sub-subparagraph 420.211 (b) (i) (D)**
insert
(E) Tourist (Class TR); or

[25] Schedule 2, sub-subparagraph 421.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

[26] Schedule 2, after sub-subparagraph 421.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[27] Schedule 2, sub-subparagraph 422.211 (b) (i) (E)

omit

(Class TU); or

insert

(Class TU);

[28] Schedule 2, after sub-subparagraph 422.211 (b) (i) (E)

insert

(F) Tourist (Class TR); or

[29] Schedule 2, clause 422.227B

after

Short Stay (Visitor) (Class TR),

insert

Tourist (Class TR),

-
- [30] **Schedule 2, sub-subparagraph 423.211 (b) (i) (D)**
omit
(Class TR); or
insert
(Class TR);
- [31] **Schedule 2, after sub-subparagraph 423.211 (b) (i) (D)**
insert
(E) Tourist (Class TR); or
- [32] **Schedule 2, sub-subparagraph 424.211 (b) (i) (E)**
omit
- [33] **Schedule 2, sub-subparagraph 424.211 (b) (i) (F)**
omit
(Class TU); or
insert
(Class TU);
- [34] **Schedule 2, after sub-subparagraph 424.211 (b) (i) (F)**
insert
(G) Tourist (Class TR); or
- [35] **Schedule 2, sub-subparagraph 425.211 (b) (i) (D)**
omit
(Class TR); or
insert
(Class TR);

[36] Schedule 2, after sub-subparagraph 425.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[37] Schedule 2, sub-subparagraph 427.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

[38] Schedule 2, after sub-subparagraph 427.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[39] Schedule 2, sub-subparagraph 428.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

[40] Schedule 2, after sub-subparagraph 428.211 (b) (i) (D)

insert

(E) Tourist (Class TR); or

[41] Schedule 2, sub-subparagraph 430.211 (b) (i) (D)

omit

(Class TR); or

insert

(Class TR);

-
- [42] **Schedule 2, after sub-subparagraph 430.211 (b) (i) (D)**
insert
(E) Tourist (Class TR); or
- [43] **Schedule 2, sub-subparagraph 432.211 (b) (i) (D)**
omit
(Class TR); or
insert
(Class TR);
- [44] **Schedule 2, after sub-subparagraph 432.211 (b) (i) (D)**
insert
(E) Tourist (Class TR); or
- [45] **Schedule 2, sub-subparagraph 442.211 (b) (i) (E)**
omit
(Class TU); or
insert
(Class TU);
- [46] **Schedule 2, after sub-subparagraph 442.211 (b) (i) (E)**
insert
(F) Tourist (Class TR); or
- [47] **Schedule 2, sub-subparagraph 457.211 (b) (i) (E)**
omit
(Class TU); or
insert
(Class TU);

[48] Schedule 2, after sub-subparagraph 457.211 (b) (i) (E)

insert

(F) Tourist (Class TR); or

[49] Schedule 2, after subparagraph 570.211 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[50] Schedule 2, after sub-subparagraph 570.227 (c) (i) (N)

insert

(NA) Tourist (Class TR);

[51] Schedule 2, after subparagraph 570.312 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[52] Schedule 2, after subparagraph 571.211 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[53] Schedule 2, after sub-subparagraph 571.227 (c) (i) (N)

insert

(NA) Tourist (Class TR);

[54] Schedule 2, after subparagraph 571.312 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

-
- [55] **Schedule 2, after subparagraph 572.211 (2) (a) (xv)**
insert
(xva) Tourist (Class TR);
- [56] **Schedule 2, after sub-subparagraph 572.227 (c) (i) (N)**
insert
(NA) Tourist (Class TR);
- [57] **Schedule 2, after subparagraph 572.312 (2) (a) (xv)**
insert
(xva) Tourist (Class TR);
- [58] **Schedule 2, after subparagraph 573.211 (2) (a) (xv)**
insert
(xva) Tourist (Class TR);
- [59] **Schedule 2, after sub-subparagraph 573.227 (c) (i) (N)**
insert
(NA) Tourist (Class TR);
- [60] **Schedule 2, after subparagraph 573.312 (2) (a) (xv)**
insert
(xva) Tourist (Class TR);
- [61] **Schedule 2, after subparagraph 574.211 (2) (a) (xv)**
insert
(xva) Tourist (Class TR);

[62] Schedule 2, after sub-subparagraph 574.227 (c) (i) (N)

insert

(NA) Tourist (Class TR);

[63] Schedule 2, after subparagraph 574.312 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[64] Schedule 2, after subparagraph 575.211 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[65] Schedule 2, after sub-subparagraph 575.227 (c) (i) (N)

insert

(NA) Tourist (Class TR);

[66] Schedule 2, after subparagraph 575.312 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[67] Schedule 2, after subparagraph 576.211 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[68] Schedule 2, after subparagraph 576.312 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[69] Schedule 2, after subparagraph 580.211 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[70] Schedule 2, after sub-subparagraph 580.227 (c) (i) (N)

insert

(NA) Tourist (Class TR);

[71] Schedule 2, after subparagraph 580.311 (2) (a) (xv)

insert

(xva) Tourist (Class TR);

[72] Schedule 2, sub-subparagraphs 773.213 (1) (g) (iii) (A) and (B)

substitute

(A) who is eligible for the grant of a Tourist (Class TR) visa; or

[73] Schedule 2, subparagraph 855.211 (1) (a) (vi)

substitute

(vi) Tourist (Class TR); or

[74] Schedule 2, sub-subparagraph 855.211 (2) (b) (i) (F)

substitute

(F) Tourist (Class TR); or

[75] Schedule 2, subparagraph 856.211 (1) (a) (vi)

substitute

(vi) Tourist (Class TR); or

[76] Schedule 2, sub-subparagraph 856.211 (2) (b) (i) (F)

substitute

(F) Tourist (Class TR); or

[77] Schedule 2, subparagraph 857.211 (1) (a) (vi)

substitute

(vi) Tourist (Class TR); or

[78] Schedule 2, sub-subparagraph 857.211 (2) (b) (i) (F)

substitute

(F) Tourist (Class TR); or

[79] Schedule 2, subparagraph 858.211 (1) (a) (vi)

substitute

(vi) Tourist (Class TR); or

[80] Schedule 2, sub-subparagraph 858.211 (2) (b) (i) (F)

substitute

(F) Tourist (Class TR); or

[81] Schedule 2, sub-subparagraph 956.511 (a) (ii) (A)

after

Subclass 676 Tourist (Short Stay) visa,

insert

Subclass 676 (Tourist) visa,

[82] Schedule 2, sub-subparagraph 977.511 (a) (ii) (A)

after

Subclass 676 Tourist (Short Stay) visa,

insert

Subclass 676 (Tourist) visa,

[83] Schedule 2, Part 676

substitute

Subclass 676 Tourist

676.1 Interpretation

Note oral application is defined in regulation 1.03. There are no interpretation provisions specific to this Part.

676.2 Primary criteria

Note All applicants must satisfy the primary criteria.

676.21 Criteria to be satisfied at time of application

676.211 The applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine.

676.212 The applicant seeks to visit Australia, or remain in Australia as a visitor:

- (a) 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
- (b) for a purpose other than a purpose related to business or medical treatment.

676.213 The applicant:

- (a) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
- (b) meets the requirements of paragraph 676.221 (3) (f).

- 676.214 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
- (a) the applicant is a resident of an area in PRC specified in a Gazette Notice for this paragraph; and
 - (b) the travel agent organising the applicant's tour to Australia is specified in a Gazette Notice for subparagraph 1218 (1) (b) (iii); and
 - (c) the applicant provides a written statement of the details of the tour arrangements with his or her application.

- 676.215 If the applicant is 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 that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

676.22 Criteria to be satisfied at time of decision

- 676.221 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (b) the applicant continues to satisfy the criteria in clauses 676.212 and 676.213; and

-
- (c) either:
- (i) if the applicant has not turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013, 4014, 4017 and 4018 are satisfied in relation to the applicant; or
 - (ii) if the applicant has turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013 and 4014 are satisfied in relation to the applicant; and
- (d) if the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
- (i) the criteria in clause 676.214 continue to be satisfied; and
 - (ii) the Minister has approved the details of the tour arrangements that were provided with the application; and
- (e) if the applicant is in Australia:
- (i) the applicant continues to satisfy the criteria in paragraph 676.215 (b); and
 - (ii) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (iii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is in Australia; and
 - (b) the application was not an oral application; and
 - (c) the application was not made on form 601E; and
 - (d) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (e) the applicant continues to satisfy the criteria in clause 676.212; and

- (f) either:
 - (i) the applicant has compelling personal reasons for the grant of the visa; or
 - (ii) each of the following applies:
 - (A) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;
 - (B) the applicant, or a member of the applicant's immediate family, is likely to become a charge on public funds in Australia;
 - (C) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia;
 - (D) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (g) the applicant satisfies public interest criterion 4005; and
 - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 676.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 676.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

676.224 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 Minister is satisfied that exceptional circumstances exist for the grant of the visa.

676.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

676.4 Circumstances applicable to grant

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

676.412 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, the applicant must be in PRC at the time of grant.

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

676.5 When visa is in effect

676.511 If the visa was granted to an applicant outside Australia — temporary visa permitting the holder:

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

676.512 If the visa was granted to an applicant in Australia (not being on the basis of an oral application) — temporary visa permitting the holder:

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

- (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.513 If the visa was granted to an applicant in Australia on the basis of an oral application — temporary visa permitting the holder:

- (a) to remain in Australia until the date (the *last stay date*) that is the earlier of:
 - (i) the date 6 months after the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to remain in Australia; and
 - (ii) the date 12 months from the date on which the holder last entered Australia; and
- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until the later of:
 - (A) the last stay date; and
 - (B) the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to enter Australia; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.6 Conditions

676.611 In the case of a visa granted to an applicant who meets the requirements of sub-subparagraph 676.221 (3) (f) (ii) (D), that the applicant has compelling personal reasons to work in Australia:

- (a) conditions 8201 and 8205 must be imposed; and
- (b) condition 8503 may be imposed.

676.212 In the case of a visa granted to an applicant who is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, conditions 8101, 8207, 8503 and 8530 must be imposed.

-
- 676.613 In any other case:
- (a) conditions 8101, 8201 and 8205 must be imposed; and
 - (b) condition 8503 may be imposed.

676.7 Way of giving evidence

- 676.711 No evidence need be given.
- 676.712 If evidence is given, to be given by visa label affixed to a valid passport.

[84] Schedule 2, Part 686

omit

[85] Schedule 4, Part 2, after item 4065

insert

4065A 676 (Tourist) 8101 or 8201

[86] Schedule 8, item 8530

omit

paragraph 676.221 (5) (b).

insert

subparagraph 676.221 (2) (d) (ii).

[87] Schedule 9, Part 1, item 23, column 2

omit

paragraph 1218 (3) (bb)

insert

paragraph 1218 (3) (d)

[88] Schedule 9, Part 1, item 25

omit

Part 2 Further amendments**[89] Paragraph 2.12F (2) (d)**

omit

a Long Stay (Visitor) (Class TN), Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR) visa

insert

a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa

[90] Subparagraph 2.12F (2) (d) (i)

substitute

- (i) satisfies the Minister that the applicant meets the requirements of subclause 675.221 (4), 676.221 (3) or 685.221 (6) of Schedule 2; and

[91] Paragraph 2.43 (1) (e)

substitute

(e) in the case of:

- (i) the holder of an Electronic Travel Authority (Class UD) visa who is under the age of 18 years; or
- (ii) the holder of a Long Stay (Visitor) (Class TN) visa, that was applied for using form 601E, who is under the age of 18 years; or
- (iii) the holder of a Tourist (Class TR) visa, that was applied for using form 601E, who is under the age of 18 years;

that either:

(iv) both of the following apply:

- (A) the law of the visa holder's home country did not permit the removal of the visa holder;

-
- (B) at least 1 of the persons who could lawfully determine where the additional applicant is to live did not consent to the grant of the visa; or
 - (v) the grant of the visa was inconsistent with any Australian child order in force in relation to the visa holder;

[92] Subparagraph 2.43 (1) (f) (ii)

substitute

- (ii) the holder of a Long Stay (Visitor) (Class TN) visa, that was applied for using a form 601E, who:
 - (A) is under the age of 18 years; and
 - (B) is not accompanied by his or her parent or guardian; or
- (iii) the holder of a Tourist (Class TR) visa, that was applied for using a form 601E, who:
 - (A) is under the age of 18 years; and
 - (B) is not accompanied by his or her parent or guardian;

[93] Subparagraphs 2.43 (1) (j) (i), (ia), (ib) and (ii)

substitute

- (i) a Subclass 676 (Tourist) visa; or
- (ii) a Subclass 676 (Tourist (Short Stay)) visa; or
- (iii) a Subclass 679 (Sponsored Family Visitor) visa; or
- (iv) a Subclass 686 (Tourist (Long Stay)) visa;

Schedule 9 Amendments relating to Student Guardian visas

(regulation 3)

[1] Schedule 2, paragraph 580.223 (2) (c)

omit

that the nominating student

insert

that, unless the applicant meets the requirements of subclause 580.222 (4), the nominating student

[2] Schedule 2, paragraph 580.223 (2) (c), at the foot

insert

Note If the applicant meets the requirements of subclause 580.222 (4), the nominating student may intend to reside with 1 or more holders of a Subclass 580 visa in addition to the applicant.

[3] Schedule 2, Division 580.6

substitute

580.6 Conditions

580.611 (1) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (2) or (3) — conditions 8101, 8201, 8501, 8516, 8534, 8537 and 8538.

(2) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (4) — conditions 8106, 8201, 8501, 8516, 8534, 8537 and 8538.

580.612 In the case of a visa granted to an applicant who meets the requirements of clause 580.321 — conditions 8101, 8501, 8502 and 8516.

Schedule 10 Amendments relating to student visas

(regulation 3)

[1] **Schedule 2, clause 580.111, after definition of *acceptable individual***

insert

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

[2] **Schedule 2, clause 580.112, definition of *funds from an acceptable source*, subparagraph (e) (vi)**

substitute

- (vi) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (vii) an acceptable non-profit organisation.

[3] **Schedule 2, clause 580.113, definition of *funds from an acceptable source*, subparagraph (e) (vi)**

substitute

- (vi) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (vii) an acceptable non-profit organisation.

[4] Schedule 5A, clause 5A101, after definition of AASES (Acceptance Advice of Secondary Exchange Student)

insert

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

[5] Schedule 5A, subclause 5A205 (2), definition of *funds from an acceptable source*, subparagraph (b) (vi)

substitute

- (vi) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (vii) an acceptable non-profit organisation;

[6] Schedule 5A, subclause 5A208 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[7] Schedule 5A, subclause 5A305 (2), definition of *funds from an acceptable source*, subparagraph (d) (vi)

substitute

- (vi) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (vii) an acceptable non-profit organisation.

[8] Schedule 5A, subparagraph 5A308 (2) (d) (vii), definition of *funds from an acceptable source*

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[9] Schedule 5A, subclause 5A405 (2), definition of *funds from an acceptable source*, subparagraph (b) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation;

[10] Schedule 5A, subclause 5A408 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[11] Schedule 5A, subclause 5A505 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[12] Schedule 5A, subclause 5A508 (2), definition of *funds from an acceptable source*, subparagraph (e) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[13] Schedule 5A, subclause 5A605 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[14] Schedule 5A, subclause 5A608 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[15] Schedule 5A, subclause 5A705 (2), definition of *funds from an acceptable source*, subparagraph (b) (vi)

substitute

- (vi) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (vii) an acceptable non-profit organisation;

[16] Schedule 5A, subclause 5A708 (2), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[17] Schedule 5B, clause 5B101, before definition of *course fees*

insert

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support it proposes to provide.

[18] Schedule 5B, subclause 5B201 (3), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[19] Schedule 5B, subclause 5B202 (3), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[20] Schedule 5B, subclause 5B301 (3), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

[21] Schedule 5B, subclause 5B302 (3), definition of *funds from an acceptable source*, subparagraph (d) (vii)

substitute

- (vii) an organisation specified by the Minister in a Gazette Notice for this subparagraph; or
- (viii) an acceptable non-profit organisation.

Schedule 11 Further amendments relating to student visas

(regulation 3)

[1] Schedule 2, paragraph 570.232 (b)

substitute

- (b) of a type that was specified for Subclass 570 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[2] Schedule 2, after clause 570.234

insert

- 570.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[3] Schedule 2, after clause 570.332

insert

- 570.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[4] Schedule 2, paragraph 571.232 (b)

substitute

- (b) of a type that was specified for Subclass 571 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[5] Schedule 2, after clause 571.236

insert

571.237 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[6] Schedule 2, after clause 571.332

insert

571.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[7] Schedule 2, paragraph 572.231 (b)

substitute

(b) of a type that was specified for Subclass 572 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[8] Schedule 2, after clause 572.234

insert

572.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[9] Schedule 2, after clause 572.332

insert

572.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[10] Schedule 2, paragraph 573.231 (b)*substitute*

- (b) of a type that was specified for Subclass 573 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[11] Schedule 2, after clause 573.234*insert*

- 573.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[12] Schedule 2, after clause 573.332*insert*

- 573.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[13] Schedule 2, paragraph 574.231 (b)*substitute*

- (b) of a type that was specified for Subclass 574 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[14] Schedule 2, after clause 574.234*insert*

- 574.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[15] Schedule 2, after clause 574.332

insert

574.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[16] Schedule 2, paragraph 575.231 (b)

substitute

(b) of a type that was specified for Subclass 575 visas under regulation 1.40A in a Gazette Notice that was in force at the time the application was made.

[17] Schedule 2, after clause 575.234

insert

575.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[18] Schedule 2, after clause 575.332

insert

575.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[19] Schedule 2, after clause 576.232

insert

576.233 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[20] Schedule 2, after clause 576.333*insert*

- 576.334 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

[21] Further amendments — omissions

The following provisions are omitted from Schedule 2:

- clause 570.212
- clause 570.226
- clause 570.313
- clause 571.212
- clause 571.226
- clause 571.313
- clause 572.212
- clause 572.226
- clause 572.313
- clause 573.212
- clause 573.226
- clause 573.313
- clause 574.212
- clause 574.226
- clause 574.313
- clause 575.212
- clause 575.226
- clause 575.313
- clause 576.212
- clause 576.225
- clause 576.313.

Schedule 12 Amendments relating to Student eVisas

(regulation 3)

[1] Schedule 1, after paragraph 1222 (1) (a)

insert

- (aa) In the case of an application by an applicant who is in Australia and:
- (i) is included in a class of persons specified by a Gazette Notice for the purposes of this subparagraph: 157A or 157A (Internet); or
 - (ii) is included in a class of persons specified by a Gazette Notice for the purposes of this subparagraph: 157P or 157P (Internet).

[2] Schedule 1, paragraph 1222 (1) (ba)

omit

[3] Schedule 1, paragraph 1222 (1) (d)

substitute

- (d) In any other case: 157A.

[4] Schedule 1, paragraphs 1222 (3) (ca), (cb), (cc) and (cd)

omit

Schedule 13 Amendments relating to student visas

(regulation 3)

Part 1 Amendments

[1] **Schedule 5A, item 5A101, definition of *foundation course***

substitute

foundation course means a registered course that is registered as foundation studies.

Note **Registered course** is defined in regulation 1.03.

[2] **Schedule 5A, sub-subparagraph 5A204 (c) (ii) (A)**

omit

in the English language; or

insert

in English; or

[3] **Schedule 5A, sub-subparagraph 5A204 (c) (ii) (B)**

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[4] Schedule 5A, sub-subparagraph 5A404 (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[5] Schedule 5A, sub-subparagraph 5A404 (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[6] Schedule 5A, sub-subparagraph 5A407 (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[7] Schedule 5A, sub-subparagraph 5A407 (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[8] Schedule 5A, subparagraph 5A504 (1) (aa) (ii)

omit

of at least 1 year's duration

[9] Schedule 5A, sub-subparagraph 5A504 (1) (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[10] Schedule 5A, sub-subparagraph 5A504 (1) (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[11] Schedule 5A, subparagraph 5A506 (b) (ii)

omit

of at least 1 year's duration

[12] Schedule 5A, subparagraph 5A506 (c) (ii)

omit

of at least 1 year's duration

[13] Schedule 5A, subparagraph 5A507 (1) (aa) (ii)

omit

of at least 1 year's duration

[14] Schedule 5A, sub-subparagraph 5A507 (1) (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[15] Schedule 5A, sub-subparagraph 5A507 (1) (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[16] Schedule 5A, sub-subparagraph 5A604 (2) (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[17] Schedule 5A, sub-subparagraph 5A604 (2) (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[18] Schedule 5A, sub-subparagraph 5A607 (2) (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[19] Schedule 5A, sub-subparagraph 5A607 (2) (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[20] Schedule 5A, sub-subparagraph 5A704 (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[21] Schedule 5A, sub-subparagraph 5A704 (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

[22] Schedule 5A, sub-subparagraph 5A707 (d) (ii) (A)

omit

in the English language; or

insert

in English; or

[23] Schedule 5A, sub-subparagraph 5A707 (d) (ii) (B)

substitute

(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 (other than a foundation course) that was conducted in English; or

(C) studied towards a foundation course that was conducted in Australia and in English;

Part 2 Further amendments

[24] Schedule 5A, sub-subparagraph 5A204 (c) (ii) (B)

omit

studied towards

insert

successfully completed

[25] Schedule 5A, sub-subparagraph 5A404 (d) (ii) (B)

omit

studied towards

insert

successfully completed

-
- [26] Schedule 5A, sub-subparagraph 5A407 (d) (ii) (B)**
omit
studied towards
insert
successfully completed
- [27] Schedule 5A, sub-subparagraph 5A504 (1) (d) (ii) (B)**
omit
studied towards
insert
successfully completed
- [28] Schedule 5A, sub-subparagraph 5A507 (1) (d) (ii) (B)**
omit
studied towards
insert
successfully completed
- [29] Schedule 5A, sub-subparagraph 5A604 (2) (d) (ii) (B)**
omit
studied towards
insert
successfully completed
- [30] Schedule 5A, sub-subparagraph 5A607 (2) (d) (ii) (B)**
omit
studied towards
insert
successfully completed

[31] Schedule 5A, sub-subparagraph 5A704 (d) (ii) (B)

omit

studied towards

insert

successfully completed

[32] Schedule 5A, sub-subparagraph 5A707 (d) (ii) (B)

omit

studied towards

insert

successfully completed

Schedule 14 Amendments relating to working holiday visas

(regulation 3)

[1] Schedule 1, item 1225

substitute

1225. Working Holiday (Temporary) (Class TZ)

- (1) Form: 1150 or 1150E.
- (2) Visa application charge (payable at the time application is made): \$170.
- (3) Other:
 - (a) Application must be made outside Australia.
 - (b) Applicant must be outside Australia.
- (4) Subclasses:
 - 417 (Working Holiday)

[2] Schedule 2, clause 417.111, before definition of *working holiday visa*

insert

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in a Gazette Notice under paragraph 417.211 (3) (a) or (b).

[3] Schedule 2, subclause 417.211 (1)

substitute

- (1) The applicant meets the requirements of subclauses (2) to (5).

[4] Schedule 2, paragraph 417.211 (2) (c)

substitute

- (c) holds a working holiday eligible passport.

[5] Schedule 2, subclause 417.211 (3), except the note

substitute

- (3) The application is made:
- (a) if the applicant is a member of a class of persons specified in a Gazette Notice for this paragraph — in any foreign country; or
 - (b) if the applicant is a member of a class of persons specified in a Gazette Notice for this paragraph — in the foreign country specified in the Gazette Notice for that class of persons.

[6] Schedule 2, subclause 417.211 (5), note

omit

[7] Schedule 2, clause 417.212

omit

[8] Schedule 2, subclause 417.221 (1)

substitute

- (1) The applicant meets the requirements of subclauses (2) to (7).

[9] Schedule 2, subclause 417.221 (7), note

omit

[10] Schedule 2, clause 417.222

omit

[11] Schedule 2, Divisions 417.4, 417.5 and 417.6

substitute

417.4 Circumstances applicable to grant

417.411 The applicant must be outside Australia at the time of grant.

417.5 When visa is in effect

417.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia within 12 months after the date of grant of the visa; and
- (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

417.6 Conditions

417.611 Conditions 8108 and 8201.

417.612 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8403, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Schedule 15 Amendments relating to Prospective Marriage Spouse visas

(regulation 3)

[1] Paragraph 1.15A (3) (ab)

omit

[2] Subregulation 1.15A (4)

omit

(ab),

[3] Schedule 1, subitem 1115 (1)

substitute

(1) Form: 47SV.

[4] Schedule 1, subparagraph 1115 (2) (a) (vi)

omit

[5] Schedule 1, paragraph 1115 (3) (a)

omit

[6] Schedule 1, paragraph 1115 (3) (aa)

substitute

(aa) Application must be made by:

- (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or

- (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.

[7] Schedule 1, paragraph 1115 (3) (c)

omit

[8] Schedule 1, subitem 1115 (4)

omit

831 (Prospective Marriage Spouse)

[9] Schedule 1, paragraph 1214C (3) (d)

omit

[10] Schedule 2, Part 831

omit

Schedule 16 Amendments relating to the general points test

(regulation 3)

[1] Subparagraph 2.26A (2) (a) (iv)

omit

visa; or

insert

visa; and

[2] Subparagraph 2.26A (2) (a) (v)

omit

[3] Subparagraph 2.26A (2) (b) (iii)

omit

visa.

insert

visa; and

[4] After paragraph 2.26A (2) (b)

insert

- (c) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7, 8, 9A or 10 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of a Subclass 495 (Skilled — Independent Regional (Provisional)) visa.

[5] Schedule 6A, Part 9, heading

substitute

Part 9 Sponsorship qualification — general

[6] Schedule 6A, after Part 9

insert

**Part 9A Sponsorship qualification for Skilled —
Independent Regional (Provisional)
(Class UX) visa**

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A9A1	The applicant: <ul style="list-style-type: none"> (a) has applied for a Skilled — Independent Regional (Provisional) (Class UX) visa; and (b) is sponsored by a State or Territory government agency for the purposes of that visa application 	10

Schedule 17 Amendment relating to movement records

(regulation 3)

[1] After regulation 3.10

insert

3.10A Access to movement records

- (1) For subparagraph 488 (2) (a) (vii) of the Act, Commonwealth, State or Territory legislation specified by the Minister in a Gazette Notice for this subregulation is prescribed.

Note Under subsection 488 (1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, subparagraph 488 (2) (a) (vii) of the Act permits the Minister to authorise an officer to perform 1 or more of those actions for the purposes of prescribed Commonwealth, State or Territory legislation.

- (2) For paragraph 488 (2) (g) of the Act:
 - (a) an agency of the Commonwealth, a State or a Territory specified by the Minister in a Gazette Notice for this paragraph is prescribed; and
 - (b) an employee of a prescribed agency who is specified by the Minister in a Gazette Notice for this paragraph is prescribed; and
 - (c) a purpose specified by the Minister in a Gazette Notice for this paragraph is prescribed.

Note Under subsection 488 (1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, paragraph 488 (2) (g) of the Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform 1 or more of those actions for a prescribed purpose.

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.