EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 240

Issued by the Minister for Immigration
and Multicultural and Indigenous Affairs

Subject - *Migration Act 1958*

Migration Amendment Regulations 2005 (No. 9)

Subsection 504(1) of the *Migration Act 1958* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

In addition, regulations may be made pursuant to the provisions listed in the Attachment A

The purpose of the Regulations is to amend the *Migration Regulations 1994* (the Principal Regulations) to reflect changes necessary for the operation of immigration policy and regulations in relation to student visas; remaining relatives; New Zealand Citizen visa holders; personal identification; sponsor undertakings relating to medical and hospital expenses and employer sponsored applicants.

In particular, the Regulations:

- repeal a number of temporary visa subclasses, which are no longer necessary as applicants are eligible to apply for other existing visa subclasses, and repeal of these subclasses decreases the potential for confusion and improves administration;
- clarify meanings, simplify application requirements and enable certain applicants who have been unsuccessful in an application for one visa class to make an application for another visa class within the General Skilled Migration visa classes;
- streamline and clarify the application requirements and clarify certain grant criteria for General Skilled Migration visas;
- enable holders of certain student visas, and applicants under 18 years of age, to be eligible for the grant of the Subclass 442 (Occupational Trainee) visa in certain specified circumstances, and change the conditions to which the visa will be subject;
- enable the Minister to approve, in certain circumstances, a further sponsorship by a sponsor of an applicant for a Sponsored (Visitor) (Class UL) visa where a previously sponsored visa holder failed to leave Australia on expiry of the visa;
- allow working holiday makers who have carried out seasonal work in regional Australia for a total period of at least three months to be granted a further Working Holiday Maker (WHM) visa;
- create a new temporary sponsored trade skills training visa to allow non-citizens to undertake apprenticeships in regional areas where the position has been unable to be filled locally;
- expand the range of options available for sponsoring and funding of overseas participants who apply for a Professional Development visa under an approved Professional Development program, remove the need for Commonwealth agencies to pay the

application fee to become approved sponsors, and include an undertaking to be made by sponsors to replace forfeit of security amounts;
- remove career relevance requirements where they apply to student visa applicants from higher immigration risk countries;
- amend the English language proficiency requirements for certain 'high immigration risk' applicants subject to Assessment levels 4 and 3, and extend the eligibility criteria for these certain 'high immigration risk' applicants for the Subclass 573 (Higher Education Sector) visa;
- merge the offshore and onshore former resident visas (Subclasses 832 and 151) into one class and one subclass; and
- make various technical amendments, to remove drafting errors, inconsistencies and obsolete references.

Transitional provisions clarify which provisions apply to applicants whose applications are not finally determined at the time the Regulations commence.

Details of the Regulations are set out in Attachment B.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 1 November 2005. The commencement date is a consequence of various systems requirements necessary to allow the implementation of the Regulations.

The Office of Regulation Review in the Productivity Commission was consulted and required the Regulation Impact Statements at Attachment C [RIS No. 7102] and Attachment D [RIS No. 6367] in regard to Schedules 6 and 7 to these Regulations respectively.

The Office of Regulation Review in the Productivity Commission advises that the remainder of the regulations are not likely to have a direct effect, or substantial indirect effect, on business and are not likely to restrict competition.

The following external agencies and other bodies were consulted in relation to:
- Schedule 1 to the Regulations – the Health Insurance Commission (HIC) was consulted relating to the possible impact of the abolition of Subclasses 430 (Supported Dependant) and 432 (Expatriate (Temporary)) visas, and advised that there will be no significant impact on the HIC; the Department of Family and Community Services (FACS) was consulted on the possible impact of the abolition of the Subclass 430 (Supported Dependant) visa, which will result in applicants applying instead for Subclass 309 (Spouse (Provisional)) visas with Medicare entitlements. FACS advised that currently in certain circumstances holders of Subclass 309 (Spouse) visas were eligible to apply for Special Benefit Payments. Instead of applying for a Subclass 430 (Supported Dependant) visa applicants could also apply for other visas, some of which entitled them to Family Assistance and related payments. FACS advised that in light of the numbers of visas involved that there will be no significant impact on social security outlays; as part of the Australian Temporary Residence programme, "In Australia's Interests", the Migration

Agents industry, including the Migration Institute of Australia (MIA), were consulted in 2002 on the changes. Additional comment was sought from the MIA in June 2005 and the Immigration Lawyers Association of Australasia, who raised no further matters at that time;

- Schedule 4 to the Regulations – the Department of Employment & Workplace Relations – response was positive and in favour of change; Department of Health and Aging – the changes were well received; Department of Education, Science and Training – strongly supported the changes; Australian Council of Independent Vocational Colleges – positive response; Australian Vice Chancellor's Committee – general support; and TAFE Directors Australia – some concerns regarding imposing mandatory health insurance for the whole period of stay. Response to TDA indicated that legislation is likely to mirror that in student legislation and leave the details to policy;
- Schedule 6 to the Regulations – the Department of Industry, Tourism & Resources; Department of Transport & Regional Services; Department of Employment & Workplace Relations; Department of Finance & Administration; Australian Bureau of Statistics; Department of Foreign Affairs & Trade; Department of Agriculture, Fisheries & Forestry; National Farmers Federation; Victorian Farmers Federation; Mildura & District Educational Council; and Tourism Australia. All of the external agencies and other bodies welcomed the legislative change;
- Schedule 7 to the Regulations - Commonwealth government departments, including the Department of Education, Science and Training (DEST), the Department of Employment and Workplace Relations (DEWR), the Department of Transport and Regional Services (DOTARS), the Department of Finance and Administration (DOFA), and the Department of Prime Minister and Cabinet (PM&C); State and Territory government departments responsible for training and vocational education; Local governments and councils in regional areas; Peak industry bodies such as Group Training Australia, the Australian Chamber of Commerce (ACCI), the Business Council of Australia (BCA), the Australian Industry Group (AiG), the National Farmers Federation (NFF) and Agrifood Industry Skills Council; Peak education and training industry bodies such as TAFE Directors Australia, Australian Council of Private Education and Training (ACPET), the Australian Council of Independent Vocational Colleges,(ACIVC) and regional TAFEs in Victoria; Potential sponsors, such as Group Training Organisations, and local employers. These consultations have been largely positive, and have not indicated any major concerns with the introduction of the visa;
- Schedule 8 to the Regulations – the Department of Education, Science and Training – Consulted, no adverse comments; Department of Employment and Workplace Relations – Consulted, no adverse comments; AIEPB Secretariat – Consulted, response was positive and in favour of change; Australian Vice Chancellors' Committee – Consulted, response was supportive of change; TAFE Directors Australia – Consulted, response was supportive of change;
- Schedule 10 to the Regulations – The Affiliation of International Education Peak Bodies was consulted. A number of peak bodies, including those representing the Vocational Education and Training sector, requested that courses at Certificate level IV or higher and in foundation studies that are conducted by an Australian service provider in English and outside Australia, be acceptable pathways to higher education; The Department of Education, Science and Training (DEST) was consulted and they advised that they considered Australian courses delivered overseas, which lead to a qualification in the Australian Qualifications Framework, to be of equal academic standing to the equivalent delivered in Australia.

No other consultations were conducted in relation to the other Schedules to the Regulations, as the amendments were considered not to have relevant implications for any external agencies or other bodies.

The Minute recommends that Regulations be made in the form proposed.

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ATTACHMENT A

Subsection 504(1) of the *Migration Act 1958* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act. Subsection 5(1) of the Act provides, amongst other things, that "prescribed" means prescribed by the regulations.

In addition to subsection 504(1), the following provisions may apply:

- subsection 31(1) of the Act, which provides that the regulations prescribe classes of visas;
- subsection 31(3) of the Act provides that the regulations may prescribe criteria for a visa or visas of a specified class (which, without limiting the generality of this subsection, may be a class provided for by section 32, 36, 37 or 37A but not by section 33, 34, 35 or 38 of the Act);
- subsection 31(4) of the Act, which provides that the regulations may prescribe whether visas of a class or a class of visas are to travel to and enter Australia, or to remain in Australia or both;
- subsection 31(5) of the Act, which provides that the regulations specify that a visa is a visa of a particular class;
- subsection 40(1) of the Act, which provides that the regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;
- subsection 40(2) of the Act, which provides that without limiting subsection 40(1), the circumstances may be, or may include, that, when the person is granted the visa, the person:
  - is outside Australia; or
  - is in immigration clearance; or
  - has been refused immigration clearance and has not subsequently been immigration cleared; or
  - is in the migration zone and, on last entering Australia, was immigration cleared or bypassed immigration clearance and had not subsequently been immigration cleared;
- subsection 41(1) of the Act, which provides that the regulations may provide that visas, or visas of a specified class, are subject to specified conditions;
- subsection 41(2) of the Act, which provides that, without limiting subsection 41(1), the regulations may provide that a visa, or visas of a specified class, are subject to:
  - a condition that, despite anything else in the Act, the holder of the visa will not, after entering Australia, be entitled to be granted a substantive visa (other than a protection visa or a temporary visa of a specified kind), while he or she remains in Australia; or
  - a condition imposing restrictions about the work that may be done in Australia by the holder, which, without limiting the generality of this paragraph, may be restrictions on doing: any work; work other than specified work; or work of a specified kind;
- subsection 41(3) of the Act, which provides that, in addition to any conditions specified under subsection 41(1), the Minister may specify that a visa is subject to such conditions as are permitted by the regulations for the purposes of this subsection;

- subsection 45A of the Act, which provides that the regulations may prescribe that a non-citizen who makes an application for a visa is liable to pay a visa application charge if, assuming the charge were paid, the application would be a valid visa application;
- subsection 45B(1) of the Act, which provides that the regulations may prescribe the amount that is the amount of visa application charge, not exceeding the visa application charge limit;
- subsection 45C(1) of the Act, which provides that the regulations may provides that visa application charge may be payable in instalments, specify how those instalments are to be calculated and specify when instalments are payable;
- subsection 45C(2) of the Act, which provides that the regulations may make provision for and in relation to:
  - the recovery of visa application charge in relation to visa applications; or
  - the way, including the currency, in which visa application charge is to be paid; or
  - working out how much visa application charge is to be paid; or
  - the time when visa application charge is to be paid; or
  - the persons who may be paid visa application charge on behalf of the Commonwealth;
- subsection 46(1) of the Act, which provides that the regulations may provide the circumstances where an application for a visa is valid;
- subsection 46(2) of the Act, which provides that the regulations may provide that an application for a visa is valid if:
  - it is an application for a visa of a class prescribed for the purposes of this subsection; and
  - under the regulations, the application is taken to have been validly made.
- subsection 46(3) of the Act, which provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application;
- subsection 46(4) of the Act, which provides that the regulations may prescribe, without limiting subsection 46(3):
  - the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
  - how an application for a visa of a specified class must be made; and
  - where an application for a visa of a specified class must be made; and
  - where an applicant must be when an application for a visa of a specified class is made;
- subsection 46(A)(1) of the Act, which provides that the regulations may provide that an application for a visa is not a valid application if it is made by an offshore entry person;
- section 70 of the Act, which provides that subject to the regulations, if a non-citizen is granted a visa, an officer is to give the non-citizen evidence of the visa;
- subsection 71(1) of the Act, which provides that evidence of a visa is to be given in a way prescribed for giving the evidence;
- subsection 71(2) of the Act, which provides that the regulations may provide that the way in which evidence of a visa or a visa of a class is to be given is to depend on the circumstances in which it is given;
- subsection 71(3) of the Act, which provides that evidence of a non-citizen's visa may be given by endorsing a valid passport or other valid travel document issued to the non-citizen or another non-citizen associated with him or her, the Minister may direct that a specified document is not to be taken to be a passport or travel document for the purposes of the regulation;

- subsection 73 of the Act, which provides that the regulations may provide that the Minister may grant a bridging visa permitting the non-citizen to remain in, or to travel to, enter and remain in Australia:
  - during a specified period; or
  - until a specified event happens;
- paragraph 116(1)(g) of the Act, which provides that the regulations may prescribe grounds on which the Minister may cancel a visa;
- section 140A of the Act, which provides that the regulations prescribe the kind of visas to which Division 3A – Sponsorship applies;
- subsection 140B(1) of the Act, which permits the regulations to provide that sponsorship by an approved sponsor is a criterion for a visa of a prescribed kind;
- subsection 140C(1) of the Act, which permits the regulations to provide that sponsorship by an approved sponsor is a criterion for a valid application for a visa of a prescribed kind (however described);
- subsection 140C(2) of the Act, which provides that the regulations may require that an applicant's proposed sponsor has applied to be an approved sponsor at or before the time that the visa application is made for a visa of a prescribed kind;
- subsection 140E(1) of the Act, which provides that the regulations may prescribe criteria for approval as a sponsor;
- subsection 140E(2) of the Act, which provides that the regulations may prescribe different criteria for approval as a sponsor for different kinds of visas;
- subsection 140F(1) of the Act, which provides that the regulations may establish a process for the Minister to approve a person as a sponsor;
- subsection 140F(2) of the Act, which provides that the regulations may specify different processes for different kinds of visas for the purposes of subsection 140F(1);
- subsection 140G(2) of the Act, which provides that the regulations must prescribe the kind of terms of approval that must be applied to an approval as a sponsor;
- subsection 140G(3) of the Act, which provides that the regulations may prescribe different kinds of terms of approval that must be applied to an approval as a sponsor for different kinds of visas;
- subsection 140H(1) of the Act, which provides that the regulations may prescribe undertakings to be made by an applicant for approval as a sponsor;
- subsection 140H(4) of the Act, which provides that the regulations may prescribe different undertakings for different kinds of visas;
- paragraph 140I(1)(a) of the Act, which provides that the regulations can prescribe an undertaking to pay the Commonwealth an amount prescribed in the regulations;
- paragraph 140I(1)(a) of the Act, which provides that the regulations can prescribe an amount to be payable to the Commonwealth in accordance with an undertaking by the sponsor;
- paragraph 140I(1)(b) of the Act, which provides that the regulations can prescribe an undertaking to pay the Commonwealth an amount in relation to costs worked out in accordance with a method prescribed by reference to a determination of the Minister;
- paragraph 140I(1)(b) of the Act, which provides that the regulations can prescribe that the Minister make a determination on the method by which an amount payable to the Commonwealth by the sponsor is to be calculated;
- paragraph 140J(2)(b) of the Act, which provides that the regulations may prescribe the criteria that the Minister is to take into account in determining what action to take under section 140L if a sponsor breaches an undertaking;

- paragraph 140K(1)(a) of the Act, which provides that the regulations may prescribe other circumstances under which the Minister may take one or more of the actions mentioned in section 140L of the Act (relating to cancelling or barring approval as a sponsor) if a sponsor breaches an undertaking;
- paragraph 140K(1)(b) of the Act, which provides that the regulations may prescribe the criteria that the Minister is to take into account in determining what action to take under section 140L if circumstances prescribed under paragraph 140K(1)(b) exist;
- subsection 140O(1) of the Act, which provides that the regulations may prescribe temporary visas as kinds of visas to which section 140O (relating to waiving a bar on an approved sponsor) applies;
- subsection 140O(2) of the Act, which provides that the regulations may prescribe the circumstances under which the Minister may waive a bar placed on an approved sponsor;
- subsection 140O(3) of the Act, which provides that the regulations may prescribe the criteria to be taken into account by the Minister in determining whether to waive a bar;
- paragraph 140Q(1)(a) of the Act, which provides that the regulations may prescribe the circumstances in which, and for how long, an undertaking under section 140H remains enforceable against a sponsor if the visa holder ceases to hold the sponsored visa;
- paragraph 140Q(1)(b) of the Act, which provides that the regulations may prescribe the circumstances in which, and for how long, an undertaking under section 140H remains enforceable against a sponsor if the sponsor ceases to be an approved sponsor;
- subsection 140Q(2) of the Act, which provides that the regulations may specify different circumstances and different periods for different kinds of temporary visas;
- section 140V of the Act, which provides that the regulations may prescribe:
  - kinds of personal information about a visa holder (or former visa holder) which the Minister may disclose to an approved sponsor (or former approved sponsor); and
  - the circumstances in which that information may be disclosed to the sponsor; and
  - the circumstances in which the sponsor may then use or further disclose that information;
- paragraph 338(2)(d) of the Act, which provides that the regulations may prescribe a temporary visa which has as a criterion that the applicant must be sponsored by an approved sponsor, with the effect that a decision to refuse the prescribed visa will be an *MRT-reviewable decision* where the visa could be granted while the applicant is in the migration zone, and the applicant was in the migration zone at the time of application and was sponsored by an approved sponsor or there is a review pending in relation to a decision not to approve the sponsor;
- subsection 338(9) of the Act, which provides that the regulations may prescribe a decision as an *MRT-reviewable decision*; and
- paragraph 347(2)(d) of the Act, which provides that the regulations may prescribe the persons who may make applications for review of decisions that are prescribed in the regulations as *MRT-reviewable decisions.*

ATTACHMENT B

Details of the proposed *Migration Amendment Regulations 2005 (No. 9)*

Regulation 1 – Name of Regulations

This regulation provides that these Regulations are the *Migration Amendment Regulations 2005 (No. 9)*.

Regulation 2 – Commencement

This regulation provides that these Regulations commence on 1 November 2005.

Regulation 3 – Amendment of *Migration Regulations 1994*

This regulation provides that Schedules 1 to 12 amend the *Migration Regulations 1994* (the Principal Regulations).

Regulation 4 – Transitional – Schedule 1

This regulation provides that:

- the amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 1, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Regulation 5 – Transitional – Schedule 2

This regulation provides that:

- the amendments made by Part 1 of Schedule 2 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Part 1 of Schedule 2, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been mad; and
- the amendments made by Part 2 of Schedule 2 apply in relation to an application for a visa:
  - made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005; or
  - made on or after 1 November 2005.

Regulation 6 – Transitional – Schedule 3

This regulation provides that:

- the amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 3, the Principal Regulations, as amended by items [1] and [71] of that Schedule, are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments (other than the amendment made by items [1] and [71]) had not been made.

Regulation 7 – Transitional – Schedule 4

This regulation provides that:

- the amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 4, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Regulation 8 – Transitional – Schedule 6

This regulation provides that the amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 November 2005.

Regulation 9 – Transitional – Schedule 8

Applications for approval as approved professional development sponsor:

This regulation provides that:

- if an application for approval as an approved professional development sponsor is made on or after 1 November 2005, the Principal Regulations, as amended by Schedule 8 (the ***new law***), apply in relation to the application; and
- if:
- an application for approval as an approved professional development sponsor is made before 1 November 2005; and
- the application is not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*) before 1 November 2005;

despite the amendments of the Principal Regulations made by Schedule 8, the Principal Regulations, as in force immediately before the commencement of this item (the ***old law***), are taken to apply in relation to the application, as if those amendments had not been made.

Applications for visas:

This regulation also provides that:

- if:
- an application for a visa is made on or after 1 November 2005; and
- the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and
- the sponsor is approved under the new law;

the new law applies in relation to the application for a visa; and

- despite the amendments of the Principal Regulations made by Schedule 8, if:
- the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and
- the sponsor is approved under the old law;

the old law is taken to apply in relation to the application for a visa, as if those amendments had not been made.

Regulation 10 – Transitional – Schedule 9

This regulation provides that:

- the amendments made by Schedule 9 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 9, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Regulation 11 – Transitional – Schedule 10

This regulation provides that:

- the amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 10, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Regulation 12 – Transitional – Schedule 12

This regulation provides that:

- the amendments made by Schedule 12 apply in relation to an application for a visa made on or after 1 November 2005; and
- despite the amendments made by Schedule 12, the Principal Regulations are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Schedule 1 – Amendments relating to temporary residence visas

The effect of the amendments made by this Schedule is that on and after 1 November 2005 applicants are no longer able to apply for the Family Relationship (Temporary) (Class TL) visa, Supported Dependent (Temporary) (Class TW) visa, Expatriate (Temporary) (Class TJ) visa and Confirmatory (Temporary) (ClassTD) visa.

A further amendment made by this Schedule is that on and after 1 November 2005 the Cultural/Social (Temporary) (Class TE) visa no longer includes the Subclass 424 (Public Lecturer) visa.

Part 1 Amendments

Item [1] – Paragraph 2.07AO(3)(h)

This item omits paragraph 2.07AO(3)(h) from subregulation 2.07AO(3) in Part 2 of the Principal Regulations.

Paragraph 2.07AO(3)(h) provided that, by operation of subsection 46(2) of the Act, certain non-citizens in the circumstances set out in subregulation 2.07AO(2), could make a valid application for a Subclass 424 (Public Lecturer) visa.

This amendment is consequential to omitting the Subclass 424 (Public Lecturer) visa in Item 1205 in Schedule 1 to the Principal Regulations, by item [4] of these Regulations (below).

Item [2] – Paragraph 2.12BF(1)(h)

This item omits paragraph 2.12BF(1)(h) from subregulation 2.12BF(1) in Part 2 of the Principal Regulations.

Paragraph 2.12BF(1)(h) provided that certain applicants for a Subclass 424 (Public Lecturer) visa needed to satisfy modified public interest criteria.

This amendment is consequential to omitting the Subclass 424 (Public Lecturer) visa in subitem 1205(4) in Schedule 1 to the Principal Regulations, by item [4] of these Regulations (below).

Part 2 – Amendments of Schedule 1

Item [3] – Item 1204

This item omits Item 1204 of Schedule 1 to the Principal Regulations.

Item 1204 set out the requirements for making a valid application for the Confirmatory (Temporary) (Class TD) visa, with Subclass 446 (Confirmatory (Temporary)) the only available subclass.

Subclass 446 (Confirmatory (Temporary)) visa is no longer necessary because clients can be granted the visa they originally applied for overseas. It is rarely used and none were granted in 2003-2004. Subclass 446 (Confirmatory (Temporary)) is omitted by item [12] of this Schedule (below).

It is therefore unnecessary to retain the Confirmatory (Temporary) (Class TD) visa class.

The omission of Item 1204 decreases the potential for confusion and improves administration.

Item [4] – Sub-item 1205(4)

This item amends subitem 1205(4) of Schedule 1 to the Principal Regulations by omitting the reference to Subclass 424 (Public Lecturer).

Item 1205 sets out the requirements for making a valid application for a Cultural/Social (Temporary) (Class TE) visa and subitem 1205(4) sets out the visa subclasses available.

Subclass 424 (Public Lecturer) is omitted by item [8] of this Schedule (below). Item 1205 retains the six other visa subclasses. Applicants may therefore continue to be eligible for this visa class in addition to other existing visas, such as Subclasses 456 (Business (Short Stay) and 457 (Business (Long Stay)) visas. It is therefore unnecessary to retain the Subclass 424 (Public Lecturer) visa.

Item [5] – Item 1210

This item omits Item 1210 of Schedule 1 to the Principal Regulations.

Item 1210 set out the requirements for making a valid application for the Expatriate (Temporary) (Class TJ) visa class, with Subclass 432 (Expatriate (Temporary)) the only available subclass.

Subclass 432 (Expatriate (Temporary)) is omitted by item [11] of this Schedule (below).

Applicants may be eligible for tourist or visitor visas and children of school age who are currently eligible for this visa may be eligible for a Student visa to attend school.
It is therefore unnecessary to retain the Expatriate (Temporary) (Class TJ) visa class.

The omission of Item 1210 decreases the potential for confusion and improves administration.

Item [6] – Item 1212

This item omits Item 1212 of Schedule 1 to the Principal Regulations.

Item 1212 set out the requirements for making a valid application for the Family Relationship (Temporary) (Class TL) visa class, with Subclass 425 (Family Relationship) the only available subclass.

Subclass 425 (Family Relationship) is omitted by item [9] of this Schedule (below) Applicants who would previously be eligible for the Subclass 425 (Family Relationship) visa may be eligible for tourist or visitor visas, including the Subclass (Sponsored Family Visitor) visa.

It is therefore unnecessary to retain the Family Relationship (Temporary)(Class TL) visa class.

The omission of Item 1212 decreases the potential for confusion and improves administration.

Item [7] – Item 1223

This item omits Item 1223 of Schedule 1 to the Principal Regulations.

Item 1223 set out the requirements for making a valid application for the Supported Dependent (Temporary) (Class TW) visa class, with Subclass 430 (Supported Dependent) the only available subclass.

Subclass 430 (Supported Dependent) is omitted by item [10] of this Schedule (below).

Applicants previously eligible for the Subclass 430 (Supported Dependent) visa may be eligible for other existing visas that would suit their intended length of stay, and whether or not they intended to work. For example, applicants intending a short stay without working may be eligible for tourist and visitor visas, while applicants intending to work may be eligible for temporary resident visas. In addition, some applicants who are currently eligible for a Subclass 430 (Supported Dependent) visa, and who wish to remain in Australia for a long time, may be eligible for a Spouse visa. It is therefore unnecessary to retain the Supported Dependent (Temporary) (Class TW) visa class.

The omission of Item 1223 decreases the potential for confusion and improves administration.

Part 3 – Amendments to Schedule 2

Item [8] – Part 424, including heading

This item omits Part 424 and the heading ‘Subclass 424 – Public Lecturer’ in Schedule 2 to the Principal Regulations.

Part 424 set out the criteria that needed to be satisfied by the applicant and their family, and set out other specified circumstances and conditions, for the grant of a Subclass 424 (Public Lecturer) visa.

This amendment is consequential to omitting the reference to Subclass 424 (Public Lecturer) visa in subitem 1205(4) of Schedule 1 to the Principal Regulations, by item [4] of this Schedule (above).

Item [9] – Part 425, including heading

This item omits Part 425 and the heading ‘Subclass 425 - Family Relationship’ in Schedule 2 to the Principal Regulations.

Part 425 set out the criteria that needed to be satisfied by the applicant and their family, and set out other specified circumstances and conditions, for the grant of a Subclass 425 (Family Relationship) visa.

This amendment is consequential to omitting Item 1212 in Schedule 1 to the Principal Regulations, by item [6] of this Schedule (above).

Item [10] – Part 430, including heading

This item omits Part 430 and the heading ‘Subclass 430 - Supported Dependent’ in Schedule 2 to the Principal Regulations.

Part 430 set out the criteria that needed to be satisfied by the applicant and their family, and set out other specified circumstances and conditions, for the grant of a Subclass 430 (Supported Dependent) visa.

This amendment is consequential to omitting Item 1223 in Schedule 1 to the Principal Regulations, by item [7] of this Schedule (above).

Item [11]– Part 432, including heading

This item omits Part 432 and the heading ‘Subclass 432 - Expatriate (Temporary)’ in Schedule 2 to the Principal Regulations.

Part 432 set out the criteria that needed to be satisfied by the applicant and their family, and set out other specified circumstances and conditions, for the grant of a Subclass 432 (Expatriate (Temporary)) visa.

This amendment is consequential to omitting Item 1210 in Schedule 1 to the Principal Regulations, by item [5] of this Schedule (above).

Item [12] – Part 446, including heading

This item omits Part 446 and the heading ‘Subclass 446 – Confirmatory (Temporary)’ in Schedule 2 to the Principal Regulations.

Part 446 set out the criteria that needed to be satisfied by the applicant and their family, and set out other specified circumstances and conditions, for the grant of a Subclass 446 (Confirmatory (Temporary)) visa.

This amendment is consequential to omitting Item 1204 of Schedule 1 to the Principal Regulations, by item [3] of this Schedule (above).

Part 4 – Amendments to Schedule 4

Item [13] – Part 2, table, item 4053

This item omits Item 4053 from the table in Part 2 of Schedule 4 to the Principal Regulations, relating to the conditions applicable to certain subclasses of visas for the purposes of subclause 4013(2).

The table provided that condition 8101, relating to the visa holder not engaging in work in Australia, applies to the Subclass 425 (Family Relationship) visa.

This amendment is consequential to omitting the Item 1212 in Schedule 1 to the Principal Regulations, by items [6] and [9] of this Schedule (above).

Item [14] – Part 2, table, item 4054

This item omits Item 4054 from the table in Part 2 of Schedule 4 to the Principal Regulations, relating to the conditions applicable to certain subclasses of visas for the purposes of subclause 4013(2).

The table provided that condition 8101, relating to the visa holder not engaging in work in Australia, applies to the Subclass 432 (Expatriate (Temporary) visa.

This amendment is consequential to omitting Item 1210 in Schedule 1 to the Principal Regulations, by items [5] and [11] of this Schedule (above).

Schedule 2 - Amendments relating to Skilled Migration visas

Part 1 – Amendments applying to applications made on or after 1 November 2005

Division 1 – General Amendments

Item [1] – Regulation 2.11, heading

This item substitutes the heading of regulation 2.11 in Part 2 of the Principal Regulations with a new heading.

The amended heading is ‘Regulation 2.11 – Special provisions for certain visa applications that are refused’.

This amendment is consequential to amendments made in item [2] and reflects the fact that the provisions of the amended regulation 2.11 are no longer limited refusal of visa applications outside Australia.

Item [2] – Subregulations 2.11(1) and (2)

This item substitutes subregulations 2.11(1) and 2.11(2) in Part 2 of the Principal Regulations with new subregulations 2.11(1), 2.11(2) and 2.11(2A).

New subregulation 2.11(1) provides that an applicant who has made an application outside Australia, or an application in Australia for:

- a Skilled – Independent Overseas Student (Residence) (Class DD) visa; or
- a Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visa; or
- a Skilled – Independent Regional (Provisional) (Class UX) visa; or
- a Skilled – Independent (Migrant) (Class BN) visa; or
- a Skill Matching (Migrant) (Class BR) visa; or
- a Skilled – Australian sponsored (Migrant) (Class BQ); or
- a Skilled – New Zealand Citizen (Residence) (Class DB) visa;

and whose application is refused, may be invited by the Minister to make a further application for a visa of a different class.

New subregulation 2.11(2) provides that where the applicant was outside Australia, an application for a permanent visa or a temporary visa may only be followed by an invitation to apply for a further permanent visa or temporary visa, respectively. Where the applicant was inside Australia, the invitation is limited to be an invitation to apply for one of the classes mentioned above.

New subregulation 2.11(2A) provides exceptions (previously contained in paragraphs 2.11(2)(c) to (e)) where the Minister may invite an overseas applicant to apply for a different kind of visa and not necessarily a temporary or permanent visa, depending on the kind of visa applied for.

The purpose of this amendment is to ensure that applicants for a General Skilled Migration visa, whether outside Australia or in Australia, whose applications are refused may be invited by the Minister to make a further application for a General Skilled Migration visa.

Item [3] – Subregulation 2.12(1)

This item omits the phrase ‘(which limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused)’ from subregulation 2.12(1) of Part 2 of the Principal Regulations.

This amendment is consequential to technical amendments made in item [4] in this Schedule (below).

Item [4] – Subregulation 2.12(1), at the foot

This item inserts a Note at the foot of subregulation 2.12(1) in Part 2 of the Principal Regulations.

The Note states that ‘Section 48 of the Act limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused’.

This is a technical amendment that has no practical effect on the operation of the regulations.

Item [5] – After subregulation 2.12(3)

This item inserts new subregulation 2.12(4) after subregulation 2.12(3) in Part 2 of the Principal Regulations.

New subregulation 2.12(4) provides that, for section 48 of the Act the following classes of visas are prescribed if, and only if, the person to whom the visa relates has received an invitation under regulation 2.11 as amended by item [2] of these Regulations:

- a Skilled – Independent Overseas Student (Residence) (Class DD) visa; or
- a Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visa; or
- a Skilled – Independent Regional (Provisional) (Class UX) visa; or
- a Skilled – Independent (Migrant) (Class BN) visa; or
- a Skill Matching (Migrant) (Class BR) visa; or
- a Skilled – Australian sponsored (Migrant) (Class BQ); or
- a Skilled – New Zealand Citizen (Residence) (Class DB) visa.

This amendment also includes a Note that explains the effect of section 48 of the *Migration Act 1958*.

The purpose of this amendment is to ensure that applicants in Australia whose application for a General Skilled Migration visa is refused, and who are invited by the Minister to apply for a visa of a different class under regulation 2.11 as amended by item [2] in this Schedule (above), may make an application for a visa of that different class, and are not barred from doing so by section 48 of the *Migration Act 1958*.

Division 2 – Amendments of Schedule 1

Item [6] – Sub-item 1128AA(2), at the foot

Item [7] – Sub-item 1128B(2), at the foot

Item [8] – Sub-item 1128BA(2), at the foot

These items insert Notes at the foot of subitems 1128AA(2), 1128B(2) and 1128BA(2) of Schedule 1 to the Principal Regulations, respectively.

These Notes state that regulation 2.11 makes special provision for the visa application charge (VAC) payable if the Minister has invited the applicant to apply for this visa.

The purpose of these Notes is to provide a cross reference to regulation 2.11 of the Principal Regulations, that makes special provision for the visa application charge (VAC) payable where the applicant has been invited, by the Minister, to make an application for a particular visa class (the second application) after an application for another visa class (the first application) has been refused. Where regulation 2.11 applies, the VAC payable is the amount (if any) by which the VAC for the second application exceeds the VAC for the first application.

Item [9] – Subitem 1128BA(5), definition of *completed*

This item substitutes the definition of *completed* in Subitem 1128BA(5) of Schedule 1 to the Principal Regulations, with a new definition of *completed*.

The new definition states that for the purpose of Item 1128BA of Schedule 1, in relation to a degree, diploma or trade qualification, *completed* means having met the academic requirements for its award.

The amendment includes a Note at the foot of the definition of *completed* which advises that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification.

The purpose of this amendment is to clarify that an applicant is taken to have *completed* a degree, diploma or trade qualification from when they have met the academic requirements for an award, rather than from the formal conferral of the award.

Item [10] – Schedule 1, subitem 1128C(2), at the foot

Item [11] – Schedule 1, subitem 1128CA(2), at the foot

These items insert Notes at the foot of subitems 1128C(2) and 1128CA(2) of Schedule 1 to the Principal Regulations, respectively.

These Notes state that regulation 2.11 makes special provision for the VAC payable if the Minister has invited the applicant to apply for this visa.

The purpose of these Notes is to provide a cross reference to regulation 2.11 of the Principal Regulations, that makes special provision for the VAC payable where the applicant has been invited, by the Minister, to make an application for a particular visa class (the second application) after an application for another visa class (the first application) has been refused. Where regulation 2.11 applies, the VAC payable is the amount (if any) by which the VAC for the second application exceeds the VAC for the first application.

Item [12] – Subitem 1128CA(5), definition of *completed*

This item substitutes the definition of *completed* in subitem 1128CA(5) of Schedule 1 to the Principal Regulations, with a new definition of *completed*.

The new definition provides that for the purpose of Item1128CA of Schedule 1, in relation to a degree, diploma or trade qualification, *completed* means having met the academic requirements for its award.

The amendment includes a Note at the foot of the definition of *completed* which provides that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification.

The purpose of this amendment is to clarify that an applicant is taken to have *completed* a degree, diploma or trade qualification from when they have met the academic requirements for an award, rather than from the formal conferral of the award.

Item [13] – Subitem 1128D(2), at the foot

This item inserts a Note at the foot of subitem 1128D(2) of Schedule 1 to the Principal Regulations.

This Note states that regulation 2.11 makes special provision for the visa application charge (VAC) payable if the Minister has invited the applicant to apply for this visa.

The purpose of this Note is to provide a cross reference to regulation 2.11 of the Principal Regulations, that makes special provision for the VAC payable where the applicant has been invited, by the Minister, to make an application for a particular visa class (the second application) after an application for another visa class (the first application) has been refused. Where regulation 2.11 applies, the VAC payable is the amount (if any) by which the VAC for the second application exceeds the VAC for the first application.

Item [14] – Subitem 1212A(5), definition of *completed*

This item substitutes the definition of *completed* in subitem 1212A(5) of Schedule 1 to the Principal Regulations, with a new definition of *completed*.

The new definition provides that for the purpose of Item 1212A of Schedule 1, in relation to a degree, diploma or trade qualification, *completed* means having met the academic requirements for its award.

The amendment includes a Note at the foot of the definition of *completed* which provides that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification.

The purpose of this amendment is to clarify that an applicant is taken to have *completed* a degree, diploma or trade qualification from when they have met the academic requirements for an award, rather than from the formal conferral of the award.

Item [15] – Subitem 1218A(2), at the foot

This item inserts a Note at the foot of subitem 1218A(2) of Schedule 1 to the Principal Regulations.

This Note states that regulation 2.11 makes special provision for the visa application charge (VAC) payable if the Minister has invited the applicant to apply for this visa.

The purpose of this Note is to provide a cross reference to regulation 2.11 of the Principal Regulations, that makes special provision for the VAC payable where the applicant has been invited, by the Minister, to make an application for a particular visa class (the second application) after an application for another visa class (the first application) has been refused. Where regulation 2.11 applies, the VAC payable is the amount (if any) by which the VAC for the second application exceeds the VAC for the first application.

Division 3 – Amendments of Schedule 2

Item [16] – Clause 134.111, definition of *completed*

Item [17] – Clause 136.111, definition of *completed*

Item [18] – Clause 137.111, definition of *completed*

Item [19] – Clause 138.111, definition of *completed*

Item [20] – Clause 139.111, definition of *completed*

Item [21] – Clause 495.111, definition of *completed*

These items substitute the definitions of *completed* in clauses 134.111, 136.111, 137.111, 138.111, 139.111 and 495.111 of Schedule 2 to the Principal Regulations, respectively, with a new definition of *completed*.

The new definition provides that for the purpose of Parts 134, 136, 137, 138, 139 and 495 of Schedule 2, respectively, in relation to a degree, diploma or trade qualification, *completed* means having met the academic requirements for its award.

The amendment includes a Note at the foot of the definition of *completed* which provides that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification.

The purpose of this amendment is to clarify that an applicant is taken to have *completed* a degree, diploma or trade qualification from when they have met the academic requirements for an award, rather than from the formal conferral of the award.

Item [22] – Clauses 495.227 and 495.228

This item substitutes clauses 495.227 and 495.228 of Part 495 of Schedule 2 to the Principal Regulations with new clause 495.227.

New clause 495.227 provides that the applicant must be sponsored by a State or Territory government agency, that sponsorship must have been accepted by the Minister, and the sponsorship must still be in force.

The purpose of this amendment is to omit the provision of former clause 495.227 that sponsorship be evidenced on a particular form.

This amendment also omits the provision of former clause 495.228 concerning the assurance of support accepted by the Secretary of the Department of Family and Community Services, as holders of this visa class are not eligible for support from the Department of Family and Community Services and thus do not need to provide assurances.

Item [23] - Clause 495.324

This item omits clause 495.324 from Part 495 of Schedule 2 to the Principal Regulations.

This amendment omits the provision of former clause 495.324 concerning the assurance of support accepted by the Secretary of the Department of Family and Community Services, as holders of this visa class are not eligible for support from the Department of Family and Community Services and thus do not need to provide assurances.

Item [24] – Clause 861.111, definition of *completed*

Item [25] – Clause 862.111, definition of *completed*

Item [26] – Clause 863.111, definition of *completed*

These items substitute the definition of *completed* in clauses 861.111, 862.111 and 863.111 of Schedule 2 to the Principal Regulations, respectively, with a new definition of *completed*.

The new definition provides that for the purpose of Parts 861, 862 and 863 of Schedule 2, respectively, in relation to a degree, diploma or trade qualification, *completed* means having met the academic requirements for its award.

The amendment includes a Note at the foot of the definition of *completed* which provides that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification.

The purpose of this amendment is to clarify that an applicant is taken to have *completed* a degree, diploma or trade qualification from when they have met the academic requirements for an award, rather than from the formal conferral of the award.

Part 2 – Further amendments

Division 1 – General Amendments

Item [27] – After subregulation 2.26A(5)

This item inserts new subregulation 2.26A(5A) after subregulation 2.26A(5) in Part 2 of the Principal Regulations.

New subregulation 2.26A(5A) provides that, in relation to Part 8 of Schedule 6A to the Principal Regulations, where:

- an application for a visa was made, but not finally determined with the meaning of subsection 5(9) of the Act, before 1 November 2005; and
- the Minister made an assessment under subsection 93(1) of the Act in relation to the application before 1 November 2005;

the number of points for that assessment is taken to be the sum of the number of points included in the assessment and the number of points (if any) to which the applicant would have been entitled, under Item 6A82 of Part 8 of Schedule 6A, as inserted by item [41] of this Schedule (below), if that item had been in force at the time of the assessment.

The purpose of this amendment is to ensure that applicants who have made an application before 1 November 2005, and who have been assessed for the purposes of the points test, but whose application has not been finally determined before 1 November 2005, have the same opportunity to be awarded bonus points under the amended Item 6A82 in Part 8 of Schedule 6A, as those applicants who make an application for a visa on or after 1 November 2005.

Division 2 – Amendments of Schedule 2

Item [28] – After clause 136.232

This item inserts new clause 136.233 after clause 136.232 in Part 136 of Schedule 2 to the Principal Regulations.

New clause 136.233 provides that if the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included, or consequent to the amendments made by item [27] of this Schedule (above), was taken to have included, the bonus points relating to a designated security mentioned in paragraph (a) of Item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least A$100 000 in a designated security for a term of not less than 12 months.

The purpose of this amendment is to ensure that applicants who have been assessed at time of application as having the qualifying score for the visa on the basis of the bonus points for making a deposit of at least $100,000 in a designated security for at least 12 months have actually made that deposit at time of decision.

Item [29] – After clause 137.231

This item insets new clause 137.232 after clause 137.231 in Part of Schedule 2 to the Principal Regulations.

New clause 137.232 provides that if the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included, or consequent to the amendments made by item [27] of this Schedule (above), was taken to have included, the bonus points relating to a designated security mentioned in paragraph (a) of Item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least A$100 000 in a designated security for a term of not less than 12 months.

The purpose of this amendment is to ensure that applicants who have been assessed at time of application as having the qualifying score for the visa on the basis of the bonus points for making a deposit of at least A$100,000 in a designated security for at least 12 months have actually made that deposit at time of decision.

Item [30] – Clause 495.222, including the note

This item substitutes clause 495.222 in Part 495 of Schedule 2 to the Principal Regulations with new clause 495.222.

New clause 495.222 provides that if the applicant is an applicant for a Skilled – Independent (Migrant) (Class BN) visa who was invited by the Minister, under regulation 2.08DA, to apply for the Skilled – Independent Regional (Provisional) (Class UX) visa and who made that application within 6 months of the invitation, the applicants assessed score for the Skilled – Independent (Migrant) (Class BN) visa is equal to or greater than the applicable pass mark for the Skilled – Independent Regional (Provisional) (Class UX) visa. In all other cases the applicant has the qualifying score assessed for the visa under subdivision B of Division 3 of Part 2 of the Act.

This amendment will assist applicants who have been assessed for a Skilled – Independent (Migrant) (Class BN) visa, whose assessed score is less than the applicable pass mark for that visa, but who have been invited by the Minister to apply for a Skilled – Independent Regional (Provisional) (Class UX) visa, and have applied within 6 months after receiving the invitation.

This amendment will allow the applicant's assessed score for the Skilled – Independent (Migrant) (Class (BN) application to be compared against the applicable pass mark for the Skilled – Independent Regional (Class UX) visa for the purposes of meeting the criteria for grant of the Skilled – Independent (Class UX) visa.

Item [31] – After clause 495.234

This item inserts new clause 495.235 after clause 495.234 in Part 495 of Schedule 2 to the Principal Regulations.

New clause 495.235 provides that if the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included, or consequent to the amendments made by item [27] of this Schedule (above), was taken to have included, the bonus points relating to a designated security mentioned in paragraph (a) of Item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least A$100 000 in a designated security for a term of not less than 12 months.

The purpose of this amendment is to ensure that applicants who have been assessed at time of application as having the qualifying score for the visa on the basis of the bonus points for making a deposit of at least $100,000 in a designated security for at least 12 months have actually made that deposit at time of decision.

Division 3 – Amendment of Schedule 6A

Item [32] – Part 8
This item substitutes Part 8 of Schedule 6A to the Principal Regulations with new Part 8.

New Part 8 provides that Item 6A81 applies in relation to an application for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa, a Skilled – New Zealand Citizen (Residence) (Class DB) visa, a Skilled – Independent Overseas Student (Residence) (Class DD) visa or a Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visa. For these applications, an applicant will be assessed as receiving 5 points where the applicant:

- has deposited at least A$100 000 in a designated security for a term of not less than 12 months;

- has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application was made while holding a substantive visa authorising him or her to work;
- is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or
- is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters.

This amendment also provides that Item 6A82 applies in relation to an application for a Skilled – Independent (Migrant) (Class BN) or a Skilled – Independent Regional (Provisional) (Class UX) visa. For these applications, an applicant will be assessed as receiving 5 points where the applicant:

- has indicated in the application that they are able and willing to deposit at least A$100 000 in a designated security for a term of not less than 12 months;
- has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application as made while holding a substantive visa authorising him or her to work;
- is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or
- is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translator and Interpreters.

The purpose of these amendments is to provide that applicants for a Skilled – Independent (Migrant) (Class BN) or a Skilled – Independent Regional (Provisional) (Class UX) visa who seek bonus points for depositing at least A$100,000 in a designated security for a term of not less than 12 months are not required to do so until they have been assessed as receiving the appropriate pass mark. It is intended that there be no change in effect to applicants for Skilled – Australian-sponsored (Migrant) (Class BQ), Skilled – New Zealand Citizen (Residence) (Class DB), Skilled – Independent Overseas Student (Residence) (Class DD) and Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visas.

Schedule 3 - Amendments relating to the general skilled migration program
Part 1 –General Amendments

Item [1] – Regulation 1.03, definition of *skilled occupation*, paragraph (a)

This item substitutes paragraph (a) of the definition of *skilled occupation* in regulation 1.03 of Part 1 of the Principal Regulations with new paragraph (a).

New paragraph (a) provides that a skilled occupation, in relation to an applicant for a Skilled – Australian-Sponsored (Migrant) (Class BQ) visa whose sponsor has stated on the sponsorship form a residential address that has a postcode specified in a Gazette Notice and has declared that the address is the place at which the sponsor usually resides, means an occupation that is in the Sydney and Selected Areas Skilled Shortage List (SSASSL) specified in that Gazette Notice and for which a number of points specified in that Gazette Notice are available.

The purpose of the amendment is to clarify that sponsors of applicants for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa must provide the address at which the sponsor usually resides.

Item [2] – After subregulation 2.26A(7)

This item inserts new subregulation 2.26A(7A) after subregulation 2.26A(7) in Part 2 of the Principal Regulations.

New subregulation 2.26A(7A) provides that, in Parts 5, 6 and 10 of Schedule 6A, *course of study* means a full-time registered course of study. It notes that *registered course* is defined in regulation 1.03.

This purpose of the amendment is to ensure that 'course of study' is defined for use in various parts of Schedule 6A (General Points Test – qualifications and points) to the Principal Regulations, and in other places that refer to this provision.

Item [3] – Paragraph 2.27C(a)

This item substitutes paragraph 2.27C(a) in Division 2.6 of Part 2 of the Principal Regulations with new paragraph 2.27C(a).

New paragraph 2.27C(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a Subclass 010 Bridging A, Subclass 020 Bridging B or a substantive visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Part 2 – Amendments of Schedule 1

Item [4] – Paragraph 1104B(3)(j)

This item replaces the words 'the applicant must have held the Skilled – Independent Regional (Provisional) (Class UX) visa for at least 2 years' with the words 'the applicant has held 1 or more Skilled – Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years' in paragraph 1104B(3)(j) of Item 1104B of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that if the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa and seeks to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa the applicant must have held one or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

The purpose of the amendment is to clarify that it is possible for a Skilled — Independent Regional (Provisional) (Class UX) visa holder to apply for a Subclass 892 (State/Territory Sponsored Business Owner) visa even if their two years holding the visa covered one or more Skilled — Independent Regional (Provisional) (Class UX) visas.

Item [5] – Paragraph 1114A(3)(ba)

This item replaces the words 'the applicant must have held the Skilled – Independent Regional (Provisional) (Class UX) visa for at least 2 years' with the words 'the applicant has held 1 or more Skilled – Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years' in paragraph 1114A(3)(ba) of Item 1114A of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that if the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa and seeks to satisfy the primary criteria for the grant of a Subclass 856 (Employer Nomination Scheme) or a Subclass 857 (Regional Sponsored Migration Scheme) visa the applicant must have held one or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

The purpose of the amendment is to clarify that it is possible for a Skilled — Independent Regional (Provisional) (Class UX) visa holder to apply for a Subclass 856 (Employer Nomination Scheme) or a Subclass 857 (Regional Sponsored Migration Scheme) visa even if their two years holding the visa covered one or more Skilled — Independent Regional (Provisional) (Class UX) visas.

Item [6] – Sub-subparagraph 1128BA(3)(ja)(i)(A)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in sub-subparagraph 1128BA(3)(ja)(i)(A) of Item 1128BA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128BA(3)(ja) will apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128BA, by item [11] of this Schedule (below).

Item [7] – Sub-subparagraph 1128BA(3)(ja)(ii)(A)

This item replaces the words 'as a result of less that 2 years of full-time study' with the words 'as a result of a course of study of less than 2 years' in sub-subparagraph 1128BA(3)(ja)(ii)(A) of Item 1128BA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128BA(3)(ja) will apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128BA, by item [11] of this Schedule (below).

Item [8] – Sub-subparagraph 1128BA(3)(ja)(ii)(B)

This item inserts after the words 'another Australian educational institution,' the words 'as a result of a course of study' in sub-subparagraph 1128BA(3)(ja)(ii)(B) of Item 1128BA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128BA(3)(ja) will apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in sub-subparagraph 1128BA(3)(ja)(ii)(A), completed at least one other 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 a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128BA, by item [11] of this Schedule (below).

Item [9] – Sub-subparagraph 1128BA(3)(ja)(ii)(C)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in sub-subparagraph 1128BA(3)(ja)(ii)(C) of Item 1128BA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128BA(3)(ja) will apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128BA, by item [11] of this Schedule (below), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [10] – After sub-subparagraph 1128BA(3)(l)(iii)(C)

This item inserts new sub-subparagraph 1128BA(3)(l)(iii)(CA) after sub-subparagraph 1128BA(3)(l)(iii)(C) in Item 1128BA of Schedule 1 to the Principal Regulations.

New sub-subparagraph 1128BA(3)(l)(iii)(CA) provides that one of the allowable relationships which the applicants sponsor may have with the primary applicant includes that of aunt or uncle, adoptive aunt or adoptive uncle, or a step-aunt or step-uncle.

The purpose of the amendment is to allow a primary applicant's niece or nephew or adoptive niece or nephew, or step-niece or nephew to sponsor the applicant for their application for this visa class.

Item [11] – Subitem 1128BA(5), after definition of *completed*

This item inserts a definition for *course of study* in subitem 1128BA(5) of Item 1128BA of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Item 1128BA has the meaning given by subregulation 2.26A(7A).

Item [12] – Paragraph 1128C(3)(d)

This item replaces the words 'the applicant must have held the Skilled – Independent Regional (Provisional) (Class UX) visa for at least 2 years' with the words 'the applicant has held 1 or more Skilled – Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years' in paragraph 1128C(3)(d) of Item 1128C of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that if the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis that the holder satisfied the primary criteria, or the last substantive visa held by the applicant was a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis that the holder satisfied the primary criteria; the applicant has held one or more Skilled – Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

The purpose of the amendment is to clarify that it is the intention that an applicant for a Skilled – Independent Regional (Migrant) (Class BN) visa who has holds a Class UX visa does not need to have held the same Class UX visa for the 2 years prior to applying.

Item [13] – Sub-subparagraph 1128CA(3)(l)(i)(A)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in sub-subparagraph 1128CA(3)(l)(i)(A) of Item 1128CA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128CA(3)(l) will apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128CA, by item [17] of this Schedule (below).

Item [14] – Sub-subparagraph 1128CA(3)(l)(ii)(A)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in sub-subparagraph 1128CA(3)(l)(ii)(A) of Item 1128CA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128CA(3)(l) will apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128CA, by item [17] of this Schedule (below).

Item [15] – Sub-subparagraph 1128CA(3)(l)(ii)(B)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in sub-subparagraph 1128CA(3)(l)(ii)(B) of Item 1128CA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128CA(3)(l) will apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in sub-subparagraph 1128CA(3)(l)(ii)(A), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128CA, by item [17] of this Schedule (below).

Item [16] – Sub-subparagraph 1128CA(3)(l)(ii)(C)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in sub-subparagraph 1128CA(3)(l)(ii)(C) Item 1128CA of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1128CA(3)(l) will apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1128CA, by item [17] of this Schedule (below), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [17] – Subitem 1128CA(5), after definition of *completed*

This item inserts a definition for *course of study* in subitem 1128CA(5) of Item 1128CA of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in subitem 1128CA(5) has the meaning given by subregulation 2.26A(7A).

Item [18] – Sub-sub-subparagraph 1212A(3)(h)(ii)(A)(I)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in sub-sub-subparagraph 1212A(3)(h)(ii)(A)(I) of Item 1212A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1212A(3)(h) will apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1212A, by item [22] of this Schedule (below).

Item [19] – Sub-sub-subparagraph 1212A(3)(h)(ii)(B)(I)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in sub-sub-subparagraph 1212A(3)(h)(ii)(B)(I) of Item 1212A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1212A(3)(h) will apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1212A, by item [22] of this Schedule (below).

Item [20] – Sub-sub-subparagraph 1212A(3)(h)(ii)(B)(II)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in sub-sub-subparagraph 1212A(3)(h)(ii)(B)(II) of Item 1212A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1212A(3)(h) will apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in sub-subparagraph 1212A(3)(h)(ii)(A), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1212A, by item [22] of this Schedule (below).

Item [21] – Sub-sub-subparagraph 1212A(3)(h)(ii)(B)(III)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in sub-sub-subparagraph 1212A(3)(h)(ii)(B)(III) of Item 1212A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1212A(3)(h) will apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-sub-subparagraphs (I) and (II) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.
The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1212A, by item [22] of this Schedule (below), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [22] – Subitem 1212A(5), after definition of *completed*

This item inserts a definition for *course of study* in subitem 1212A(5) of Item 1212A of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that the term course of study in subitem 1212A(5) has the meaning given by subregulation 2.26A(7A).

Item [23] – Paragraph 1218A(3)(c)

This item inserts ', (5A), (5B)' after (5) in paragraph 1218A(3)(c) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is to add subitems (5A) and (5B) to subitems (4), (5) or (6) as requirements which may be satisfied in order for an application for a Skilled – Independent Regional (Provisional) (Class UX) visa to be valid.

The purpose of the amendment is to provide that the additional application processes specified in new subitems (5A) and (5B) may also be used to make a valid application for a Skilled – Independent Regional (Provisional) (Class UX) visa. New subitems (5A) and (5B) are inserted in Item 1218A by item [31] of this Schedule (below).

Item [24] – Paragraph 1218A(3)(e)

This item replaces the words ‘subclause (5)’ with the words ‘subitem (5)’ in paragraph 1218A(3)(e) of Item 1218A of Schedule 1 to the Principal Regulations.

This is a technical amendment to correct the legislative reference.

Item [25] – Subitem 1218A(4)

This item substitutes subitem 1218A(4) into Schedule 1 to the Principal Regulations with new subitem 1218A(4).

New subitem 1218A(4) provides that, if the applicant is the holder of a Skilled – Independent Regional (Provisional) (Class UX) visa granted on the basis of satisfying the primary criteria, the applicant must never have held another Skilled – Independent Regional (Provisional) (Class UX) visa and the application must be accompanied by a declaration by the applicant that a Australian Federal Police check has been sought by the applicant in respect of each other applicant who is included in the application and is at least 16 years old.

The purpose of the amendment is to add the requirement that a police check is required on applying for a second Skilled – Independent Regional (Provisional) (Class UX) visa.

Item [26] – Subitem 1218A(5)

This item replaces the words ‘If the applicant is in Australia and seeks’ with the words ‘If the applicant does not meet the requirements of subitem (4), and is in Australia, and seeks’ in subitem 1218A(5) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is to provide that, if the applicant does not meet the requirements of subitem 1218A(4) and is in Australia and seeks to be eligible for the grant of a Skilled – Independent Regional (Provisional) (Class UX) visa while in Australia, the conditions in the paragraphs of this subitem must be met.

The purpose of the amendment is to clarify that it is the intention of the Principal Regulations that an applicant only needs to meet the criteria of one of subitems (4), (5), (5A), (5B) or 6.

Item [27] – Sub-subparagraph 1218A(5)(h)(i)(A)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in sub-subparagraph 1218A(5)(h)(i)(A) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1218A(5)(h) will apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1218A, by item [33] of this Schedule (below).

Item [28] – Sub-subparagraph 1218A(5)(h)(ii)(A)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in sub-subparagraph 1218A(5)(h)(ii)(A) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1218A(5)(h) will apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1218A, by item [33] of this Schedule (below).

Item [29] – Sub-subparagraph 1218A(5)(h)(ii)(B)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in sub-subparagraph 1218A(5)(h)(ii)(B) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1218A(5)(h) will apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in sub-subparagraph 1218A(5)(h)(ii)(A), completed at least one other 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 a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1218A, by item [33] of this Schedule (below).

Item [30] – Sub-subparagraph 1218A(5)(h)(ii)(C)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in sub-subparagraph 1218A(5)(h)(ii)(C) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that paragraph 1218A(5)(h) will apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Item 1218A, by item [33] of this Schedule (below), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [31] – After subitem 1218A(5)

This item inserts new subitems 1218A(5A) and 1218A(5B) after subitem 1218A(5) in Item 1218A of Schedule 1 to the Principal Regulations.

New subitem 1218A(5A) provides that, if the applicant is the holder of a Subclass 417 (Working Holiday) visa, the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old and have nominated a skilled occupation in his or her application. The application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:

- all persons included in the application have undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for this sub-subparagraph, or a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph;
- 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;
- the applicant seeking to satisfy the primary criteria has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority;
- the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
- the applicant has held a Working Holiday (Temporary) (Class TZ) visa while the applicant was present in Australia for a period of at least 6 months immediately before the day when the application is made.

New subitem 1218A(5B) provides that, if the applicant is the holder of a Subclass 442 (Occupational Trainee) visa, the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old and have nominated a skilled occupation in his or her application. The application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:

- all persons included in the application have undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for this sub-subparagraph or a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph;
- 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;
- the applicant seeking to satisfy the primary criteria has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority;
- the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
- if the applicant is the holder of a Subclass 442 (Occupational Trainee) visa on the basis of satisfying the primary criteria — the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.

The purpose of the amendment is to permit holders of Subclass 417 (Working Holiday) visas and Subclass 442 (Occupational Trainee) visas to apply for a Skilled – Independent Regional (Provisional) (Class UX) visa through a streamlined application process.

Item [32] – Subitem 1218A(6)

This item replaces the words 'subclause (4) or (5)' with the words 'subitem (4), (5), (5A) or (5B)' in subitem 1218A(6) of Item 1218A of Schedule 1 to the Principal Regulations.

The effect of this amendment is that if an applicant does not satisfy the requirements for subitem (4), (5), (5A) or (5B) they may satisfy subitem (6) if all the paragraphs in that subitem apply to them.

The purpose of the amendment is to clarify that an applicant who satisfies the criteria in subitem (4), (5), (5A) or (5B) is not also required to satisfy the criteria in subitem (6).

There is also a technical amendment that corrects the legislative reference, and has no practical effect on the Principal Regulations.

Item [33] – After subitem 1218A(7)

This item inserts new subitem 1218A(8) after subitem 1218A of Item 1218A of Schedule 1 to the Principal Regulations.

New subitem 1218A(8) provides for definitions of the meaning of the following terms used in Item 1218A:

- *completed*, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award. The definition includes a Note at the foot of the definition which provides that the academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification;
- *course of study* has the meaning given by subregulation 2.26A(7A);
- *degree* and *diploma* have the meaning given by subregulation 2.26A(6); and
- *trade qualification* has the meaning given in subregulation 2.26A(6).

The purpose of this amendment is to provide definitions for several terms used throughout the item. These terms have the same definitions as used elsewhere in Schedule 1 to the Principal Regulations.

Part 3 – Amendments of Schedule 2

Item [34] – Subclause 010.611(3A)

This item substitutes subclause 010.611(3A) with new subclause 010.311(3A)
in clause 010.611 in Part 010 (Subclass 010 – Bridging A) of Schedule 2 to the Principal Regulations

New subclause 010.611(3A) provides that, in the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211(2) or (3) on the basis of a valid application for a Graduate – Skilled (Temporary) (Class UQ) visa, a Skilled – Independent Overseas Student (Class DD) visa, a Skilled – Australian Sponsored Overseas Student (Class DE) visa or a Skilled – Independent Regional (Provisional) (Class UX) visa, condition 8501 must be imposed.

The purpose of the amendment is to require a Bridging visa A granted to a non-citizen because of a valid application for a Skilled – Independent Regional (Provisional) (Class UX) visa to have condition 8501 imposed (requiring mandatory health insurance).

Item [35] – Clause 134.111, after definition of *completed*

This item inserts a definition for *course of study* in clause 134.111 in Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 134 has the meaning given by subregulation 2.26A(7A).

Item [36] – Subparagraph 134.215(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 134.215(2)(a)(i) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.215(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above).

Item [37] – Subparagraph 134.215(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 134(2)(b)(i) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.215(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35]of this Schedule (above).

Item [38] – Subparagraph 134.215(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 134.215(2)(b)(ii) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.215(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 134.215(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35]of this Schedule (above).

Item [39] – Subparagraph 134.215(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 134.215(2)(b)(iii) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.215(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [40] – Subparagraph 134.222A(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 134.222A(2)(a)(i) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.222A(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above).

Item [41] – Subparagraph 134.222A(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 134.222A(2)(b)(i) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.222A(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above).

Item [42] – Subparagraph 134.222A(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 134.222A(2)(b)(ii) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.222A(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 134.222A(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above).

Item [43] – Subparagraph 134.222A(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 134.222A(2)(b)(iii) of Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 134.222A(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 134, by item [35] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [44] – Paragraph 134.222B(3)(a)

This item substitutes paragraph 134.222B(3)(a) in Part 134 (Subclass 134 – Skill Matching) of Schedule 2 to the Principal Regulations with new paragraph 134.222B(3)(a).

New paragraph 134.222B(3)(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [45] – Clause 136.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 136 has the meaning given by subregulation 2.26A(7A).

Item [46] – Subparagraph 136.213(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 136.213(2)(a)(i) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.213(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [47] – Subparagraph 136.213(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 136.213(2)(b)(i) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.213(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [48] – Subparagraph 136.213(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 136.213(2)(b)(ii) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.213(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 136.213(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [49] – Subparagraph 136.213(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 136.213(2)(b)(iii) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.213(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [50] – Subparagraph 136.223A(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 134.223A(2)(a)(i) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.223A(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [51] – Subparagraph 136.223A(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 134.223A(2)(b)(i) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.223A(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [52] – Subparagraph 136.223A(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 134.223A(2)(b)(ii) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.223A(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 136.223A(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above).

Item [53] – Subparagraph 136.223A(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 134.223A(2)(b)(iii) of Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 136.223A(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 136, by item [45] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [54] – Paragraph 136.223B(a)

This item substitutes paragraph 136.223B(a) in Part 136 (Subclass 136 - Skilled - Independent) of Schedule 2 to the Principal Regulations with new paragraph 136.222(B)(a).

New paragraph 136.223B(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [55] – Clause 137.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 137 has the meaning given by subregulation 2.26A(7A).

Item [56] – Subparagraph 137.214(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 137.214(2)(a)(i) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.214(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [57] – Subparagraph 137.214(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 137.214(2)(b)(i) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.214(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [58] – Subparagraph 137.214(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 137.214(2)(b)(ii) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.214(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 137.214(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [59] – Subparagraph 137.214(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 137.214(2)(b)(iii) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.214(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule(above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [60] – Subparagraph 137.221A(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 137.221A(2)(a)(i) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.221A(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [61] – Subparagraph 137.221A(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 137.221A(2)(b)(i) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.221A(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [62] – Subparagraph 137.221A(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 137.221A(2)(b)(ii) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.221A(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 137.221A(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above).

Item [63] – Subparagraph 137.221A(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 137.221A(2)(b)(iii) of Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 137.221A(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 137, by item [55] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [64] – Paragraph 137.221B(a)

This item substitutes paragraph 137.221B(a) in Part 137 (Subclass 137 - Skilled - State/Territory-nominated Independent) of Schedule 2 to the Principal Regulations with new paragraph 137.221B(a).

New paragraph 137.221B(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [65] – Clause 138.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 138 has the meaning given by subregulation 2.26A(7A).

Item [66] – After paragraph 138.211(c)

This item inserts new paragraph 138.211(ca) in Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

New paragraph 138.211(ca) provides that one of the allowable relationships which the applicants sponsor may have with the primary applicant includes that of aunt or uncle, adoptive aunt or adoptive uncle, or a step-aunt or step-uncle.

The purpose of the amendment is to allow a primary applicant's niece or nephew or adoptive niece or nephew, or step-niece or nephew to sponsor the applicant for their application for this visa class.

Item [67] – Subparagraph 138.216(2)(a)(i)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in subparagraph 138.216(2)(a)(i) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.216(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [68] – Subparagraph 138.216(2)(b)(i)

This item replaces the words 'as a result of less that 2 years of full-time study' with the words 'as a result of a course of study of less than 2 years' in subparagraph 138.216(2)(b)(i) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.216(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [69] – Subparagraph 138.216(2)(b)(ii)

This item inserts after the words 'another Australian educational institution,' the words 'as a result of a course of study' in subparagraph 138.216(2)(b)(ii) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.216(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 138.216(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [70] – Subparagraph 138.216(2)(b)(iii)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in subparagraph 138.216(2)(b)(iii) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.216(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [71] – After clause 138.221

This item inserts new clause 138.221A after clause 138.221 in Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

New clause 138.221A provides that, if the postcode of the place at which the sponsor usually resides is specified in a Gazette Notice for subparagraph (a)(i) of the definition of *skilled occupation* in regulation 1.03, the applicant has nominated a skilled occupation that is in the Sydney and Selected Areas Skilled Shortage List specified in that Gazette Notice, and has been assessed for that occupation.

The purpose of the amendment is to clarify that sponsors of applicants for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa must provide the address at which the sponsor usually resides.

Item [72] – Subparagraph 138.225A(2)(a)(i)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in subparagraph 138.225A(2)(a)(i) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.225A(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [73] – Subparagraph 138.225A(2)(b)(i)

This item replaces the words 'as a result of less that 2 years of full-time study' with the words 'as a result of a course of study of less than 2 years' in subparagraph 138.225A(2)(b)(i) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.225A(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [74] – Subparagraph 138.225A(2)(b)(ii)

This item inserts after the words 'another Australian educational institution,' the words 'as a result of a course of study' in subparagraph 138.225A(2)(b)(ii) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.225A(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 138.225A(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above).

Item [75] – Subparagraph 138.225A(2)(b)(iii)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in subparagraph 138.225A(2)(b)(iii) of Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 138.225A(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 138, by item [65] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [76] – Paragraph 138.225B(a)

This item substitutes paragraph 138.225B(a) in Part 138 (Subclass 138 - Skilled - Australian-Sponsored) of Schedule 2 to the Principal Regulations with new paragraph 138.225B(a).

New paragraph 138.225B(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [77] – Clause 139.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 139 has the meaning given by subregulation 2.26A(7A).

Item [78] – After paragraph 139.211(c)

This item inserts new paragraph 139.211(ca) after paragraph 139.211(c) in Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

New paragraph 139.211(ca) provides that one of the allowable relationships which the applicants sponsor may have with the primary applicant includes that of aunt or uncle, adoptive aunt or adoptive uncle, or a step-aunt or step-uncle.

The purpose of the amendment is to allow a primary applicant’s niece or nephew or adoptive niece or nephew, or step-niece or nephew to sponsor the applicant for their application for this visa class.

Item [79] – Subparagraph 139.217(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 139.217(2)(a)(i) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.217(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above).

Item [80] – Subparagraph 139.217(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 139.217(2)(b)(i) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.217(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above).

Item [81] – Subparagraph 139.217(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 139.217(2)(b)(ii) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.217(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 139.217(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above).

Item [82] – Subparagraph 139.217(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 139.217(2)(b)(iii) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.217(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [83] – Subparagraph 139.225A(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 139.225A(2)(a)(i) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.225A(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above).

Item [84] – Subparagraph 139.225A(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 139.225A(2)(b)(i) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.225A(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by see item [77] of this Schedule (above).

Item [85] – Subparagraph 139.225A(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 139.225A(2)(b)(ii) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.225A(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 139.225A(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above).

Item [86] – Subparagraph 139.225A(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 139.225A(2)(b)(iii) of Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 139.225A(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 139, by item [77] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [87] – Paragraph 139.225B(a)

This item substitutes paragraph 139.225B(a) in Part 139 (Subclass 139 - Skilled - Designated Area - Sponsored) of Schedule 2 to the Principal Regulations with new paragraph 139.225B(a)

New paragraph 139.225B(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [88] – Clause 495.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 495 (Subclass 495 - Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 495 has the meaning given by subregulation 2.26A(7A).

Item [89] – Before clause 495.211

This item inserts new clause 495.210 before clause 495.211 of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

New clause 495.210 provides that, for an applicant who is the holder of a Skilled – Independent Regional (Provisional) (Class UX) visa, or whose last substantive visa held by the applicant since last entering Australia was a visa of that kind, only clauses 495.213, 495.214, paragraph 495.215(c) and clause 495.219 need to be satisfied.

The purpose of the amendment is to provide that an applicant for a second Skilled – Independent Regional (Provisional) (Class UX) visa seeking to satisfy the primary criteria only needs to satisfy the time of application criteria specified by clauses 495.213, 495.214, paragraph 495.215(c) and clause 495.219 in order to have met the time of application criteria for the visa.

Item [90] – Subparagraph 495.211(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 495.211(2)(a)(i) of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 495.211(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 495, by item [88] of this Schedule (above).

Item [91] – Subparagraph 495.211(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 495.211(2)(b)(i) of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 495.211(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 495, by item [88] of this Schedule (above).

Item [92] – Subparagraph 495.211(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 495.211(2)(b)(ii) of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 495.211(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 495.211(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 495, by item [88] of this Schedule (above).

Item [93] – Subparagraph 495.211(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 495.211(2)(b)(iii) of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 495.211(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 495, by item [88] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [94] – Subparagraph 495.211(2)(b)(vi)

This item replaces the words ‘in English.’ with the words ‘in English; or’ in subparagraph 495.211(2)(b)(vi) of Part 495 (Subclass 495 - Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

This amendment is a technical amendment, with no practical effect on the Principal Regulations, and is consequential to the amendment made by item [95] of this Schedule (below).

Item [95] – After subparagraph 495.211(2)(b)(vi)

This item inserts new paragraph 495.211(2)(c) after subparagraph 495.211(2)(b)(vi) of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

New paragraph 495.211(2)(c) provides that subclause 495.211(1) does not apply to the applicant if the applicant is the holder of a Working Holiday (Temporary) (Class TZ) visa or a Subclass 442 (Occupational Trainee) visa.

The purpose of the amendment is to remove the requirement for holders of a Working Holiday (Temporary) (Class TZ) visa or a Subclass 442 (Occupational Trainee) visa to meet the work requirements normally required to meet the time of application criteria for the grant of a Subclass 495 (Skilled – Independent Regional (Provisional)) visa.

Item [96] – Clauses 495.214 to 495.219A

This item substitutes clauses 495.214, 495.215, 495.216, 495.217, 495.218, 495.219 and 495.219A for new clauses 495.214, 495.215, 495.216, 495.217, 495.218, 495.219 and 495.219A in Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

New clause 495.214 requires that, if the applicant met the requirements of subitem 1218A(4) of Schedule 1 to the Principal Regulations, 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.

New clause 495.215 requires that, for an applicant who met the requirements of subitem 1218A(5) of Schedule 1, the following must be met:

- 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;
- 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 a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5)(e)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5)(e)(i)(C) of Schedule 1;
- 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;
- if a declaration was required to be made for sub-subparagraph 1218A(5)(f)(i)(B) of Schedule 1 the Minister is satisfied that the applicant meets the requirements for which the declaration was made;

- 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.

New clause 495.216 requires that, for an applicant who met the requirements of subitem 1218A(5A) of Schedule 1, the Minister is satisfied that:

- the applicant has undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5A)(c)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5A)(c)(i)(C) of Schedule 1;
- 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;
- the applicant has applied for a skills assessment for his or her nominated skilled occupation;
- the applicant has held a Working Holiday (Temporary) (Class TZ) visa while the applicant was present in Australia for a period of at least 6 months immediately before the day when the application is made.

New clause 495.217 requires that, for an applicant who met the requirements of subitem 1218A(5B) of Schedule 1, the Minister is satisfied that:

- the applicant has undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5B)(c)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5B)(c)(i)(C) of Schedule 1;
- 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;
- the applicant has applied for a skills assessment for his or her nominated skilled occupation;
- the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.

New clause 495.218 requires that, for an applicant who met the requirements of subitem 1218A(6) 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.

New clause 495.219 requires that if a declaration was required to be made for subparagraph 1218A(6)(a)(i) 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.

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

The purpose of the amendment is to clarify the intention of the provisions relating to the time of application criteria for applicants seeking to meet the primary criteria for a grant of a Subclass 495 (Skilled – Independent Regional (Provisional)) visa. It also adds time of application criteria for applicants who apply using the streamlined application process for holders of a Working Holiday (Temporary) (Class TZ) visa or a Subclass 442 (Occupational Trainee) visa inserted by item [31] of this Schedule (above).

Item [97] – Before clause 495.221

This item inserts new clause 495.220 before clause 495.221 of Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations.

New clause 495.220 provides that, for an applicant who is the holder of a Skilled – Independent Regional (Provisional) (Class UX) visa, or whose last substantive visa held by the applicant since last entering Australia was a visa of that kind, only clauses 495.224, 495.225, 495.226, 495.227, 495.229, 495.230, 495.233 and 495.234 need to be satisfied.

The purpose of the amendment is to provide that an applicant for a second Skilled – Independent Regional (Provisional) (Class UX) visa seeking to satisfy the primary criteria only needs to satisfy the time of decision criteria specified by clauses 495.224, 495.225, 495.226, 495.227, 495.229, 495.230, 495.233 and 495.234 in order to have met the time of decision criteria for the visa.

Item [98] – Clause 495.311

This item substitutes clause 495.311 in Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations with new clause 495.311.

New clause 495.311 provides that an applicant must be either an a member of the family unit of a person who satisfies the primary criteria in Subdivision 495.21 and has made a combined application with that person, or must be a member of the family unit of a person who holds a Skilled – Independent Regional (Provisional) (Class UX) visa.

The purpose of the amendment is to clarify that members of a family unit of a Skilled – Independent Regional (Provisional) (Class UX) visa holder may seek to satisfy the secondary criteria for the grant of a Skilled – Independent Regional (Provisional) (Class UX) visa even when they are not making a combined application with that person.

Item [99] – Clauses 495.313 to 495.315

This item substitutes clauses 495.313, 495.314 and 495.315 with new clauses 495.313, 495.314, 495.315 and 495.316.in Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations

New clause 495.313 requires that if a declaration was required to be made for paragraph 1218A(4)(b) 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.

New clause 495.314 requires that if a declaration was required to be made for subitem 1218A(5) of Schedule 1 in relation to the applicant:

- if a declaration was required to be made for subparagraph 1218A(5)(e)(i) of Schedule 1 in relation to the applicant the Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5)(e)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5)(e)(i)(C) of Schedule 1;
- if a declaration was required to be made for subparagraph 1218A(5)(e)(ii) of Schedule1 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;
- 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.

New clause 495.315 requires that, if a declaration was required to be made for paragraph 1218A(5A)(c) of Schedule 1 in relation to the applicant the Minister is satisfied that:

- the applicant has undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5A)(c)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5A)(c)(i)(C) of Schedule 1;
- 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.

New clause 495.316 requires that, if a declaration was required to be made for paragraph 1218A(5B)(c) of Schedule 1 in relation to the applicant, the Minister is satisfied that:

- the applicant undergone a medical examination for the purpose of the application, carried out by a Medical Officer of the Commonwealth, a medical practitioner approved by the Minister for sub-subparagraph 1218A(5B)(c)(i)(B) of Schedule 1, or a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A(5B)(c)(i)(C) of Schedule 1;
- 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.

The purpose of the amendment is to clarify when certain time of application criteria apply, and to insert new time of application criteria for applicants seeking to satisfy the secondary criteria for the grant of a Subclass 495 (Skilled – Independent Regional (Provisional)) visa. It also adds time of application criteria for applicants who apply using the streamlined application process for holders of a Working Holiday (Temporary) (Class TZ) visa or a Subclass 442 (Occupational Trainee) visa inserted by item [31] of this Schedule (above).

Item [100] – Paragraphs 495.411(a) and (b)

This item substitutes paragraphs 495.411(a) and (b) in Part 495 (Subclass 495 – Skilled - Independent Regional (Provisional)) of Schedule 2 to the Principal Regulations with new paragraphs 495.411(a) and (b).

The effect of this amendment is to provide that if an applicant meets the requirements of subitems (4), (5), (5A) or (5B) of Item 1218A of Schedule 1 to the Principal Regulations, or is a member of the family unit of a person who meets the requirements of subitems (4), (5), (5A) or (5B) of Item 1218A of Schedule 1 to the Principal Regulations and made a combined application with that person, the applicant can be either inside Australia (but not in immigration clearance) or outside Australia at the time the visa is granted.

This amendment is technical and is consequential to the insertion of a streamlined application process for applicants who are holders of a Working Holiday (Temporary) (Class TZ) visa or a Subclass 442 (Occupational Trainee) visa inserted by item [31 of this Schedule (above).]

Item [101] – Clause 861.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 861 (Subclass 861 - Skilled - Onshore Independent New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 861 has the meaning given by subregulation 2.26A(7A).

Item [102] – Subparagraph 861.213(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 861.213(2)(a)(i) of Part 861 (Subclass 861 - Skilled - Onshore Independent New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 861.213(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 861, by item [101] of this Schedule (above).

Item [103] – Subparagraph 861.213(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 861.213(2)(b)(i) of Part 861 (Subclass 861 - Skilled - Onshore Independent New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 861.213(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 861, by item [101] of this Schedule (above).

Item [104] – Subparagraph 861.213(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 861.213(2)(b)(ii) of Part 861 (Subclass 861 - Skilled - Onshore Independent New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 861.213(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 861.213(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 861, by item [101] of this Schedule (above).

Item [105] – Subparagraph 861.213(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 861.213(2)(b)(iii) of Part 861 (Subclass 861 - Skilled - Onshore Independent New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 861.213(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 861, by item [101] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [106] – Clause 862.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 862 has the meaning given by subregulation 2.26A(7A).

Item [107] – After paragraph 862.211(c)

This item inserts new paragraph 862.211(ca) after paragraph 862.211(c) in Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

New paragraph 862.211(ca) provides that one of the allowable relationships which the applicant's sponsor may have with the primary applicant includes that of aunt or uncle, adoptive aunt or adoptive uncle, or a step-aunt or step-uncle.

The purpose of the amendment is to allow a primary applicant's niece or nephew or adoptive niece or nephew, or step-niece or nephew to sponsor the applicant for their application for this visa class.

Item [108] – Subparagraph 862.216(2)(a)(i)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in subparagraph 862.216(2)(a)(i) of Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 862.216(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 862, by item [106] of this Schedule (above).

Item [109] – Subparagraph 862.216(2)(b)(i)

This item replaces the words 'as a result of less that 2 years of full-time study' with the words 'as a result of a course of study of less than 2 years' in subparagraph 862.216(2)(b)(i) of Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 862.216(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 862, by item [106] of this Schedule (above).

Item [110] – Subparagraph 862.216(2)(b)(ii)

This item inserts after the words 'another Australian educational institution,' the words 'as a result of a course of study' in subparagraph 862.216(2)(b)(ii) of Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 862.216(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 862.216(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 862, by item [106] of this Schedule (above).

Item [111] – Subparagraph 862.216(2)(b)(iii)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in subparagraph 862.216(2)(b)(iii) of Part 862 (Subclass 862 - Skilled - Onshore Australian-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 862.216(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 862, by item [106] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [112] – Clause 863.111, after definition of *completed*

This item inserts a definition for *course of study* in Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is to provide that the term *course of study* in Part 863 has the meaning given by subregulation 2.26A(7A).

Item [113] – After paragraph 863.211(c)

This item inserts new paragraph 863.211(ca) after paragraph 863.211(c) in Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

New paragraph 863.211(ca) provides that one of the allowable relationships which the applicant's sponsor may have with the primary applicant includes that of aunt or uncle, adoptive aunt or adoptive uncle, or a step-aunt or step-uncle.

The purpose of the amendment is to allow a primary applicant's niece or nephew or adoptive niece or nephew, or step-niece or nephew to sponsor the applicant for their application for this visa class.

Item [114] – Subparagraph 863.217(2)(a)(i)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in subparagraph 863.217(2)(a)(i) of Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 863.217(1) will not apply to the applicant if (amongst other things) 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 a course of study of at least 2 years at that institution while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 863, by item [112] of this Schedule (above).

Item [115] – Subparagraph 863.217(2)(b)(i)

This item replaces the words ‘as a result of less that 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in subparagraph 863.217(2)(b)(i) of Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 863.217(1) will not apply to the applicant if (amongst other things) 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 863, by item [112] of this Schedule (above).

Item [116] – Subparagraph 863.217(2)(b)(ii)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in subparagraph 863.217(2)(b)(ii) of Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 863.217(1) will not apply to the applicant if (amongst other things) the applicant has, before completing the degree, diploma or trade qualification in Subparagraph 863.217(2)(b)(i), 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 an Australian educational institution as a result of a course of study while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 863, by item [112] of this Schedule (above).

Item [117] – Subparagraph 863.217(2)(b)(iii)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in subparagraph 863.217(2)(b)(iii) of Part 863 (Subclass 863 - Skilled - Onshore Designated Area-sponsored New Zealand Citizen) of Schedule 2 to the Principal Regulations.

The effect of this amendment is that subclause 863.217(1) will not apply to the applicant if (amongst other things) the applicant has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 863, by item [112] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [118] – Paragraph 880.222A(a)

This item substitutes paragraph 880.222A(a) in Part 880 (Subclass 880 - Skilled - Independent Overseas Student) of Schedule 2 to the Principal Regulations with new paragraph 880.222A(a).

New paragraph 880.222A(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Item [119] – Paragraph 881.224A(a)

This item substitutes paragraph 881.224A(a) in Part 881 (Subclass 881 - Skilled - Australian-sponsored Overseas Student) of Schedule 2 to the Principal Regulations with new paragraph 881.224A(a).

New paragraph 881.224A(a) provides that, in determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant held a substantive visa, Subclass 010 Bridging A visa or a Subclass 020 Bridging B visa, authorising him or her to work during that period, and complied with the conditions of that visa.

The purpose of the amendment is to permit holders of a Subclass 010 Bridging A or Subclass 020 Bridging B visa (in addition to substantive visa holders) who have permission to work to be able to count relevant work experience gained while on the bridging visa towards the requirement that they have been employed in a skilled occupation for a certain period.

Part 4 – Amendments of Schedule 6A

Item [120] – Item 6A51, sub-subparagraph (e)(i)(A)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of a course of study of at least 2 years' in sub-subparagraph (e)(i)(A) of Item 6A51 of Schedule 6A to the Principal Regulations.

The effect of this amendment is that paragraph 6A51(e) of Item 6A51 of Schedule 6A to the Principal Regulations will not apply if (amongst other things) the applicant's spouse 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 a course of study of at least 2 years at that institution while the applicant's spouse was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 5 of Schedule 6A, by item [2] of this Schedule (above).

Item [121] – Item 6A51, sub-subparagraph (e)(ii)(A)

This item replaces the words 'as a result of less that 2 years of full-time study' with the words 'as a result of a course of study of less than 2 years' in sub-subparagraph (e)(ii)(A) of Item 6A51 of Schedule 6A to the Principal Regulations.

The effect of this amendment is that paragraph 6A51(e) will not apply if (amongst other things) the applicant's spouse 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's spouse was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 5 of Schedule 6A, by item [2] of this Schedule (above).

Item [122] – Item 6A51, sub-subparagraph (e)(ii)(B)

This item inserts after the words 'another Australian educational institution,' the words 'as a result of a course of study' in sub-subparagraph (e)(ii)(B) of Item 6A51 of Schedule 6A to the Principal Regulations.

The effect of this amendment is that paragraph 6A51(e) will not apply if (amongst other things) the applicant's spouse has, before completing the degree, diploma or trade qualification in Sub-subparagraph 6A51(e)(ii)(A), 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 an Australian educational institution as a result of a course of study while the applicant's spouse was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 5 of Schedule 6A, by item [2] of this Schedule (above).

Item [123] – Item 6A51, sub-subparagraph (e)(ii)(C)

This item replaces the words 'as a result of at least 2 years of full-time study' with the words 'as a result of 1 or more courses of study undertaken over a total of at least 2 years' in sub-subparagraph (e)(ii)(C) of Item 6A51 of Schedule 6A to the Principal Regulations.

The effect of this amendment is that paragraph (e) of Item 6A51 will not apply if (amongst other things) the applicant's spouse has completed the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant's spouse was present in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 5 of Schedule 6A, by item [2] of this Schedule (abov)), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [124] – Item 6A61

This item replaces the words 'as a result of at least 2 years full-time study' with the words 'as a result of a course of study of at least 2 years' in Item 6A61 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 15 points are available if the applicant has met the requirements for award of a doctorate by an Australian educational institution as a result of a course of study of at least 2 years.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above).

Item [125] – Item 6A61A

This item replaces the words 'as a result of at least 1 year of full-time study', wherever occurring, with the words 'as a result of a course of study of at least 1 year' in Item 6A61A of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 10 points are available if the applicant has, since meeting the requirements for award of an undergraduate degree by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English, met the requirements for award of a masters degree or an honours degree at or above the level of second class division 1 honours by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above).

Item [126] – Item 6A63, paragraph (a)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in paragraph (a) of Item 6A63 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if the applicant has, amongst other things, met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) by an Australian educational institution as a result of at least 2 years full-time study in Australia.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above).

Item [127] – Item 6A64, paragraph (a)

This item replaces the words ‘as a result of less than 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in paragraph (a) of Item 6A63 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if amongst other things, the applicant has met the requirements for award of 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above).

Item [128] – Item 6A64, paragraph (b)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in paragraph (b) of Item 6A64 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) before meeting the requirements for award of the degree, diploma or trade qualification mentioned in paragraph (a) of Item 6A64, the applicant met the requirements for award of 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above).

Item [129] – Item 6A64, paragraph (c)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in paragraph (c) of Item 6A64 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (b) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 6 of Schedule 6A, by item [2] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Item [130] – Item 6A1001, paragraph (a)

This item replaces the words ‘as a result of at least 2 years full-time study’ with the words ‘as a result of a course of study of at least 2 years’ in paragraph (a) of Item 6A1001 in Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) the applicant has met the requirements for award of 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 specified in a Gazette Notice for this item as a result of a course of study of at least 2 years at a campus of the institution.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 10 of Schedule 6A, by item [2] of the Schedule (above).

Item [131] – Item 6A1001, paragraph (c)

This item replaces the words ‘the 2 years of study’ with the words ‘the course of study’ in paragraph (c) of Item 6A1001 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) the applicant lived in a part of Australia the postcode of which is specified in the Gazette Notice while the applicant undertook the course of study.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 10 of Schedule 6A, by item [2] of this Schedule (above).

Item [132] – Item 6A1002, paragraph (a)

This item replaces the words ‘as a result of less than 2 years of full-time study’ with the words ‘as a result of a course of study of less than 2 years’ in paragraph (a) of Item 6A1002 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if amongst other things, the applicant has met the requirements for award of 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 10 of Schedule 6A, by item [2] of this Schedule (above).

Item [133] – Item 6A1002, paragraph (c)

This item inserts after the words ‘another Australian educational institution,’ the words ‘as a result of a course of study’ in paragraph (c) of Item 6A1002 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) before meeting the requirements for award of the degree, diploma or trade qualification mentioned in paragraph (a) of Item 6A1002, the applicant met the requirements for award of 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.

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 10 of Schedule 6A, by item [2] of this Schedule (above).

Item [134] – Item 6A1002, paragraph (d)

This item replaces the words ‘as a result of at least 2 years of full-time study’ with the words ‘as a result of 1 or more courses of study undertaken over a total of at least 2 years’ in paragraph (d) of Item 6A1002 of Schedule 6A to the Principal Regulations.

The effect of this amendment is to provide that 5 points are available if (amongst other things) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (c) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia

The purpose of the amendment is to clarify that the study must be in a course of study as defined for the purposes of Part 10 of Schedule 6A, by item [2] of this Schedule (above), and to clarify that the total for the combined courses of study must have taken at least 2 years.

Schedule 4 – Amendments relating to occupational trainee visas

Item [1] - Subregulation 1.40(4)
This item inserts the number '442' after the word 'Part' in subregulation 1.40(4) of the Principal Regulations.

This amendment ensures that the definition of principal course in subregulation 1.40(4) of the Principal Regulations applies to Part 442 of Schedule 2 to the Principal Regulations. The effect is that the definition of principal course applies to occupational trainee visa applicants as well as student visa applicants.

Item [2] - Division 442.1

This item substitutes clause 442.111 in Part 442 of Schedule 2 to the Principal Regulations with new clause 442.111

New clause 442.111 provides definitions of ***completed*** and ***principal course*** for Part 442.

New clause 442.111 provides that in Part 442, ***completed***, in relation to the principal course, for an award course means having met the academic requirements for its award, and for a non-award course means having met the course requirements.

New clause 442.111 also provides that in Part 442, ***principal course*** has the meaning given in regulation 1.40.

The effect of the inclusion of the new definitions in Part 442 is to ensure that student visa holders complete the studies that they were granted a student visa for before undertaking occupational training and so protect the international education industry in Australia.

Item [3] - Schedule 2, sub-subparagraph 442.211(b)(i)(E)

This item omits sub-subparagraph 442.211(b)(i)(E) from Part 442 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendments made by item [4] of this Schedule (below).
Item [4] - Schedule 2, subparagraph 442.211(b)(ii)

This item substitutes subparagraph 442.211(b)(ii) of Part 442 of Schedule 2 to the Principal Regulations with new subparagraphs 442.211(b)(ii) and (iii).

Clause 442.211 provides that if the application is made in the migration zone, the applicant must be the holder of certain prescribed classes or subclasses of visa.

New subparagraph 442.211(b)(ii) prescribes the Subclass 456 (Business (Short Stay)) visa.

New subparagraph 442.211(b)(iii) prescribes the Subclass 570 (Independent ELICOS Sector), Subclass 572 (Vocational Education and Training Sector), Subclass 573 (Higher Education Sector), 574 (Postgraduate Research Sector) and Subclass 575 (Non-Award Sector) visas.

This amendment prescribes which holders of student visas are eligible to be granted an occupational trainee visa in Australia, under the provisions made by item [8] of this Schedule (below).

Item [5] - Schedule 2, after subclause 442.222(2)

This item inserts new subclause 442.222(3) after subclause 442.222(2) in Part 442 of Schedule 2 to the Principal Regulations.

Subclause 442.222(1) requires that a nomination in respect of the applicant's occupational training has been lodged and has been approved by the Minster.

New subclause 442.222(3) provides that the nomination mentioned in subclause 442.222(1) in respect of an applicant must include a declaration that the applicant will be engaged or employed under Australian Industrial Relations law and relevant Commonwealth, State or Territory awards and conditions for the industry in which the applicant will undertake occupational training.

This declaration provides some assurance that occupational trainee visa holders will be protected by the appropriate Australian industry awards and conditions that are in place for that industry.

Item [6] - Schedule 2, subparagraph 442.223(a)(ii)

This item omits the words 'after leaving Australia;' from subparagraph 442.233(a)(iii) of Part 442 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to remove the requirement that the additional or enhanced skills that the applicant will be able to utilise must be utilised in the applicant's employment after leaving Australia. This amendment is intended to clarify that occupational trainee visa holders may remain in Australia. The purpose is to provide additional opportunities for applicants to apply under the skilled migration scheme.

Item [7] - Schedule 2, clause 442.225

This item substitutes clause 442.225 of Part 442 of Schedule 2 to the Principal Regulations with new clause 442.225.

New clause 442.225 provides that the applicant, at time of decision, must satisfy public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014, and give to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

The purpose of this amendment is to ensure that the applicant satisfies certain public interest criteria and has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia. Requiring applicants to hold health insurance will reduce the potential burden on taxpayers of occupational trainee visa holders who may seek medical treatment during their stay in Australia.

Item [8] - Schedule 2, clause 442.229

This item substitutes clause 442.229 in Part 442 of Schedule 2 to the Principal Regulations with new clause 442.229.

New clause 442.229 imposes a criterion to be satisfied at the time of decision, that the applicant was, at the time of making the application, the holder of a visa mentioned in subparagraph 442.211(b)(iii), or was an applicant mentioned in paragraph 442.211(e) whose last substantive visa was of a kind specified in subparagraph 442.211(b)(iii).

Under new paragraph 442.229(a), the Minister must be satisfied that the applicant has completed the principal course, at the diploma level or higher, in Australia in relation to which that visa was granted, and seeks to undertake occupational training closely related to the principal course, and would complete the occupational training within 12 months.

Under new paragraph 442.229(b), the Minister must be satisfied that the applicant has completed the principal course in Australia in relation to which that visa was granted, and must complete a period of practical employment experience for the applicant to obtain registration in a profession in which registration is a prerequisite for the practice of the profession in the applicant's usual country of residence or Australia.

This amendment will enable applicants who have held certain student visas and have completed their principal course of study to be granted an occupational training visa to undertake training that is closely related to the principal course, or undertake practical employment experience in order to obtain registration in a profession in either the applicant's home country or Australia.

Item [9] - Schedule 2, after clause 442.232

This item inserts new clause 442.233 after clause 442.232 in Part 442 of Schedule 2 to the Principal Regulations.

New subclause 442.233(1) requires that the applicant must have turned 18, or, where applicant has not turned 18, the Minister is satisfied that exceptional circumstances exist for the grant of the visa. If the applicant has not turned 18, public interest criteria 4012, 4017 and 4018 are satisfied in relation to the applicant.

It is intended the subclass 442 visa will usually be granted to applicants who have turned 18, unless exceptional circumstances exist and public interest criteria 4012, 4017 and 4018 are satisfied in relation to the applicant.

Public interest criterion 4012 requires that an undertaking to provide accommodation for, and be responsible for the support and general welfare of, the applicant during the applicant's stay in Australia is given to the Minister by a person who, in the reasonable belief of the Minister, is of good character.

Public interest criterion 4017 requires the Minister to be satisfied that the law of the applicant's home country permits the removal of the applicant; or each person who can lawfully determine where the applicant is to live consents to the grant of the visa; or the grant of the visa would be consistent with any Australian child order in force in relation to the applicant.

Public interest criterion 4018 requires that the Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.

These public interest criteria are intended to ensure that the best interest of applicants who have not turned 18 are taken into consideration at the time of their application for the visa.

Item [10] - Schedule 2, paragraph 442.323(b)

This item replaces '4010.' with '4010;and' in paragraph 442.323(b) of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [11] of this Schedule (below).

Item [11] - Schedule 2, after paragraph 442.323(b)

This item inserts new paragraph 442.323(c) after paragraph 442.323(b) in Part 442 of Schedule 2 to the Principal Regulations.

New paragraph 442.323(c) requires an applicant to give the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

The purpose of this amendment is to ensure that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia. Requiring applicants to hold health insurance will reduce the burden on taxpayers of occupational trainee visa holders who may seek medical treatment during their stay in Australia.

Item [12] - Schedule 2, clause 442.611

This item inserts condition 8501 in clause 442.611 of Part 446 of Schedule 2 to the Principal Regulations.

This amendment will ensure that condition 8501 is a mandatory condition for all applicants who satisfy the primary criteria for the grant of this visa. Condition 8501 provides that the holder of the visa must maintain adequate arrangements for health insurance while they remain in Australia.

The purpose of this amendment is to ensure that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia. Requiring applicants to hold health insurance will reduce the potential burden on taxpayers of occupational trainee visa holders who may seek medical treatment during their stay in Australia. Policy will require health cover for at least the first 12 months of training in Australia or for the entire period of training if the training is less than 12 months. Condition 8501 obliges the visa holder to extend their health insurance as necessary if their stay is more than 12 months.

Item [13] - Schedule 2, clause 442.612

This item replaces condition 8101 with conditions 8104 and 8501 in clause 442.612 of Part 442 of Schedule 2 to the Principal Regulations.

This amendment will ensure that conditions 8104 and 8501 are mandatory conditions for all applicants who meet the secondary criteria for the grant of this visa.

Replacing the reference to condition 8101 (that the holder must not engage in work in Australia) with condition 8104 (enabling the visa holder to engage in employment for a maximum of 20 hours per week while the visa holder is in Australia) will allow applicants who meet the secondary criteria to undertake limited employment while in Australia. This is particularly important for students who have completed studies and are required by Trades Recognition Australia to undertake a certain period of practical experience in order to be recognised for skilled migration.

Condition 8501 requires the visa holder to maintain adequate arrangements for health insurance while in they remain in Australia. The purpose of this amendment is to ensure that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia (see item [12] of this Schedule (above)).

Schedule 5 – Amendments relating to sponsored family visitor visas

Item [1] – Subparagraph 1.20L(1)(c)(ii)

This item substitutes subparagraph 1.20L(1)(c)(ii) in Part 1 of the Principal Regulations with new subparagraph 1.20L(1)(c)(ii).
New subparagraph 1.20L(1)(c)(ii) makes subregulation 1.20L(1) subject to new subregulation 1.20L(4), inserted in Part 1 of the Principal Regulations by item [2] of this Schedule (below).
The purpose of this amendment is to provide an exception to subregulation 1.20L(1), which prevents the Minister from approving a further sponsorship within 5 years in certain circumstances. The exception is that where the Minister is satisfied that the criteria in new subregulation 1.20L(4) are met, the Minister may approve a further sponsorship by a sponsor of an applicant for a Sponsored (Visitor) (Class UL) visa where the sponsor is subject to a 5 year sponsorship bar.

Item [2] – After subregulation 1.20L(3)

This item inserts new subregulation 1.20L(4) after subregulation 1.20L(3) in Part 1 of the Principal Regulations.

The amendment allows the Minister to approve a further sponsorship by a sponsor of an applicant for a Sponsored (Visitor) (Class UL) visa where a previously sponsored Sponsored (Visitor) (Class UL) visa holder has breach visa condition 8531, which requires that the visa holder must not remain in Australia after the end of the period of stay permitted by the visa.

The effect of this amendment is to enable the Minister to approve a further sponsorship by a sponsor who is barred for 5 years, where the Minister is satisfied that the previously sponsored visa holder's failure to depart Australia within the visa validity period, occurred because of circumstances beyond their control that arose after their arrival in Australia.

Schedule 6 – Amendments relating to Working Holiday Maker visas

Part 1 – Amendments of Schedule 1

Item [1] - Subitem 1225(3)

This item substitutes subitem 1225(3) of Schedule 1 to the Principal Regulations with new subitems 1225(3), (3A) and (3B).

New paragraph 1225(3)(a) requires that an application made on form 1150 by an applicant who has previously entered Australia as the holder of a working holiday visa must be made by posting the application (with the correct pre-paid postage) to a post office box address or other address specified by the Minister in a Gazette Notice.

New paragraph 1225(3)(b) provides that where the applicant has not previously entered Australia as the holder of a working holiday visa, the application must be made if the applicant is a member of a class of persons specified by the Minister in a Gazette Notice in any foreign country, or if the applicant is a member of a class of persons specified by the Minister in another Gazette Notice in the foreign country specified by the Minister.

This application requirement was previously in subclause 417.211(3) of Part 417 of Schedule 2 to the Principal Regulations. Subclause 417.211(3) is omitted by item [8] of this Schedule (below.)
New subitem 1225(3A) requires applicants who have not previously entered Australia as the holder of a working holiday visa to be outside Australia and to hold a valid working holiday eligible passport.

New subitem 1225(3B) requires that applicants who have previously entered Australia as the holder of a working holiday visa must not be in immigration clearance and their application must not be made in immigration clearance. It further requires that the application is accompanied by a declaration by the applicant that he or she has carried out seasonal work in regional Australia for a total period of at least 3 months as the holder of that visa, that the applicant has not previously entered Australia as the holder of more than one working holiday visa, that the applicant holds a valid working holiday eligible passport, and if the applicant is in Australia, the applicant must be the holder of a substantive visa, or have held a substantive visa at any time in the period of 28 days immediately before making the application.

New subitem 1225(3B) and related amendments to Part 417 of Schedule 2 to the Principal Regulations, made by items [5] to [12] of this Schedule (below), allow applicants who have

previously entered Australia as the holder of a working holiday visa to apply for a further working holiday visa where they have undertaken at least 3 months seasonal work in regional Australia as the holder of that working holiday visa. These amendments also limit working holiday makers travelling to Australia to a total of two working holiday visas in a lifetime.

Item [2] – After subitem 1225(4)
This item inserts a new subitem 1225(5) after subitem 1225(4) in Schedule 1 to the Principal Regulations.

New subitem 1225(5) inserts new definitions of the following terms in Item 1225:
- *regional Australia* means a place specified by the Minister in a Gazette Notice for the definition of *regional Australia* in subitem 1225(5) of Schedule 1; and
- *seasonal work* means work of a kind specified by the Minister in a Gazette Notice for the definition of *seasonal work* in subitem 1225(5) of Schedule 1.

Item [3] – Subitem 1301(1)

This item amends subitem 1301(1) of Schedule 1 to the Principal Regulations to insert reference to forms 1150 and 1150E (Internet).

The effect of this amendment is to allow applicants in Australia who make a valid application for a further working holiday visa on forms 1150 and 1150E to apply also for the grant of a Bridging A (Class WA) visa.

Item [4] – Subitem 1303(1)

This item amends subitem 1303(1) of Schedule 1 to the Principal Regulations to insert reference to forms 1150 and 1150E (Internet).

The effect of this amendment is to allow applicants in Australia who make a valid application for a further working holiday visa on forms 1150 and 1150E to apply also for the grant of a Bridging C (Class WC) visa.

Part 2 – Amendments of Schedule 2

Item [5] – Clause 417.111, before definition of *working holiday eligible passport*

This item inserts two new definitions in clause 417.111 of Part 417 of Schedule 2 to the Principal Regulations.

The definitions are:
- *regional Australia* means a place specified by the Minister in a Gazette Notice for the definition of *regional Australia* in subitem 1225(5) of Schedule 1 to the Principal Regulations; and
- *seasonal work* means work of a kind specified by the Minister in a Gazette Notice for the definition of *seasonal work* in subitem 1225(5) of Schedule 1 to the Principal Regulations.

Item [6] – Clause 417.111, definition of *working holiday eligible passport*

This item replaces the reference to paragraphs 417.211(3)(a) or (b), in the definition of 'working holiday eligible passport' in clause 417.111 of Part 417 of Schedule 2 to the Principal Regulations, with the reference to subparagraphs 1225(3)(b)(i) and (ii) of Item 1225 of Schedule 1 to the Principal Regulations.

The effect of this amendment is to define 'working holiday eligible passport' by reference to the Gazette Notices in subparagraphs 1225(3)(b)(i) and (ii) of Schedule 1 to the Principal Regulations.

New subparagraphs 1225(3)(b)(i) and (ii) are inserted in Item 1225 of Schedule 1 to the Principal Regulations, by item [1] of this Schedule (above).

Item [7] – Subclause 417.211(1)

This item substitutes subclause 417.211(1) of Part 417 of Schedule 2 to the Principal Regulations with new subclause 417.211(1).

New subclause 417.211(1) requires an applicant to satisfy the criteria in subclauses (2), (4) and (5).

The effect of this amendment is to increase clarity by omitting a reference to an obsolete provision.

Item [8] – Subclause 417.221(3)

This item omits subclause 417.211(3) from Part 417 of Schedule 2 to the Principal Regulations.

Subclause 417.211(3) specified that an application must be made, if the applicant is a member of a class of persons specified in a Gazette Notice - in any foreign country, or if the applicant is a member of a class of persons specified in another Gazette Notice in the foreign country specified in the Gazette Notice for that class of persons.

This amendment is consequential to inserting a similar requirement on applicants who have not previously entered Australia as the holder of a working holiday visa in Item 1225(3)(b) of Schedule 1 to the Principal Regulations, as requirements for making a valid application for a Working Holiday (Temporary)(Class TZ) visa (see item [1] of this Schedule (above)).

Item [9] – Subclause 417.211(5)

This item substitutes subclause 417.211(5) of Part 417 of Schedule 2 to the Principal Regulations with new subclause 417.211(5).

New subclause 417.221(5) provides that if the applicant has previously entered Australia as the holder of a working holiday visa, the Minister must be satisfied that the applicant has carried out seasonal work in regional Australia for a total period of at least 3 months as the holder of that visa.

The effect of this amendment is to allow applicants who have previously entered Australia as the holder of a working holiday visa to satisfy the criteria for grant of a further working holiday visa if the Minister is satisfied that the applicant has carried out seasonal work in regional Australia for a total period of at least 3 months.

Item [10] – Subclause 417.221(1)

This item substitutes clause 417.211(1) of Part 417 of Schedule 2 to the Principal Regulations with new subclause 417.211(1).

New subclause 417.211(1) requires an applicant to satisfy the criteria in subclauses (2) to (7). This is a technical amendment to replace the words ‘meets the requirements’ with the words ‘satisfies the criteria’, because the following provisions are criteria that the applicant must satisfy at time of application. There is no other practical effect on the Principal Regulations.

Item [11] – Paragraph 417.221(2)(a)

This item substitutes paragraph 417.221(2)(a) of Part 417 of Schedule 2 to the Principal Regulations with new paragraph 417.221(2)(a).

New paragraph 417.221(2)(a) requires an applicant continue to satisfy at the time of decision the criteria in paragraphs 417.211(2)(a) and (c) and subclauses 417.211(4) and (5) of the criteria satisfied at the time of application.

The effect of this amendment is to insert a reference to paragraph 417.211(2)(c) so that the applicant must continue to hold a working holiday eligible passport at time of decision.

This amendment also deletes a reference to subclause 417.211(3) as subclause 417.211(3) is omitted by item [8] of this Schedule (above).

Item [12] – After clause 417.221

This item inserts new clause 417.222 in Part 417 of Schedule 2 to the Principal Regulations.

New clause 417.222 provides that if the applicant has previously entered Australia as the holder of a working holiday visa, the applicant must have complied substantially with the conditions that applied to any visa held by the applicant, and the applicant must not have previously entered Australia as the holder of more than one working holiday visa.

The effect of this amendment is that an applicant must not have previously been in Australia on more than one working holiday visa.

Item [13] – Clause 417.411

This item substitutes clause 417.411 of Part 417 of Schedule 2 to the Principal Regulations with new clauses 417.411 and 417.412.

New clause 417.411 provides that if the applicant has not previously entered Australia as the holder of a working holiday visa granted at any time, the applicant must be outside Australia at the time of grant.

New clause 417.412 provides that if the applicant has previously entered Australia as the holder of a working holiday visa, if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant, or if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

Item [14] – Clause 417.511

This item substitutes clause 417.511 of Part 417 of Schedule 2 to the Principal Regulations with new clause 417.511.

New clause 417.511 sets out when a visa is in effect.

New subclause 417.511(1) provides that if the applicant is outside Australia at the time of application, the visa is in effect as a temporary visa permitting the holder to travel to and enter Australia within 12 months after the date of grant of the visa and to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

New subclause 417.511(2) provides that if the applicant is in Australia at time of application and holds a working holiday visa at the time of application, the visa is in effect as a temporary visa permitting the holder to travel to, enter and remain in Australia until 24 months after the date of first entry to Australia as the holder of the first working holiday visa.

New subclause 417.511(3) provides that if the applicant is in Australia at the time of application, has previously entered Australia as the holder of a working holiday visa, and does not hold a working holiday visa at the time of application, the visa is in effect as a temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

The effect of these amendments is to limit the time a person may remain in Australia as the holder of a working holiday visa to a maximum of 24 months. New subclause 417.511(2) ensures that the holder of a working holiday visa who applies for a further working holiday visa retains the benefit of the full 12 months stay period on the first working holiday visa.

Schedule 7 – Amendments relating to Subclass 471 (Trade Skills Training) visa

Part 1 – General Amendments

Item [1] – Regulation 1.03, after definition of approved special student sponsor

This item inserts a new definition, *approved trade skills training sponsor,* in regulation 1.03 of Part 1 of the Principal Regulations.

The term, *approved trade skills training sponsor,* is defined to mean an organisation or individual that has been approved as a sponsor under new regulation 1.20UL – Approving an application to become an approved trade skills training sponsor, which is inserted in the Principal Regulations by item [2] of this Schedule (above).

Item [2] – Part 1, after Division 1.4D

Division 1.4E – Sponsorship: trade skills training

This item inserts new Division 1.4E in Part 1 of the Principal Regulations. New Division 1.4E prescribes matters relating to approval of sponsors of applicants for the new Subclass 471 (Trade Skills Training) visa, inserted into Schedules 1 and 2 to the Principal Regulations by Part 2 of this Schedule. The criteria for new Subclass 471 require applicants to be sponsored by an *approved trade skills training sponsor.* New Division 1.4E is made under Division 3A of Part 2 of the Act, and sets out prescribed matters relating to approved trade skills training sponsors, including:

- the requirements for applying for approval as an approved trade skills training sponsor;
- the criteria for approval as an approved trade skills training sponsor;
- the terms of approval as an approved trade skills training sponsor; and
- sponsorship undertakings that an approved trade skills training sponsor must make.

New Division 1.4E has four Subdivisions 1.4E.1, 1.4E2, 1.4E.3, and 1.4E.4.

Subdivision 1.4E.1 – Introductory

New subdivision 1.4E.1 consists of two new regulations 1.20UI and 1.20UJ.

Regulation 1.20UI – Application of Division 3A of Part2 of the Act

New regulation 1.20UI provides that for section 140A of the Act, Division 3A of Part 2 of the Act applies to a Subclass 471 (Trade Skills Training) visa.

Regulation 1.20UJ – Definitions for Division 1.4E

New regulation 1.20UJ sets out definitions of the following terms as used in new Division 1.4E:

- ***apprentice*** means a person who is undertaking, or seeking to undertake an *apprenticeship* and who has satisfied (or seeks to satisfy) the primary criteria for grant of a Subclass 471 (Trade Skills Training) visa;
- ***apprenticeship*** means full time employment and training undertaken in Australia under the *New Apprenticeship Scheme*, to obtain a *trade qualification*;
- ***Australian Standard Classification of Occupations*** means the standard published by AusInfo that is current when the definition commences (1 November 2005);
- ***New Apprenticeship Scheme*** means the national apprenticeship and traineeship arrangements that came into effect on 1 January 1998;
- ***organisation*** means a body corporate or an unincorporated body (other than an individual or sole trader); and
- ***trade qualification*** means a qualification, under the Australian Qualifications Framework, of at least Certificate III level for a skilled occupation in Major Group IV in the *Australian Standard Classification of Occupations.*

Subdivision 1.4E.2 – Becoming an approved trade skills training sponsor

New subdivision 1.4E.2 consists of new regulations 1.20UK, 1.20UL, 1.20UM, 1.20UN, 1.20UO and 1.20UP.

Regulation 1.20UK – Process for making application to become an approved trade skills training sponsor

New regulation 1.20UK is made under subsection 140F(1) of the Act, and sets out the requirements for making an application for approval as a trade skills training sponsor.

New subregulation 1.20UK(1) provides that an application may be made only by an employer, or by a national, State, Territory or local government organisation that the Minister considers is representative of industry or of a regional area of Australia.

New subregulation 1.20UK(2) provides that an application must be made in accordance with approved form 1262.

New subregulation 1.20UK(3) provides that the application must be accompanied by a fee of $1 050.

New subregulation 1.20UK(4) provides that an application for approval as an approved trade skills training sponsor must be made by posting it to, having it delivered by courier to, or faxing it to an address specified in a Gazette Notice.

New subregulation 1.20UK(5) provides that an application must state the number of persons that the applicant seeks to sponsor to be apprentices.

Regulation 1.20UL – Approving an application to become an approved trade skills training sponsor

New regulation 1.20UL is made under section 140E of the Act, and prescribes the criteria to be met by an applicant for approval as a trade skills training sponsor. The criteria are that the Minister must be satisfied that:

- the applicant is lawfully and actively operating in Australia;
- the applicant has a satisfactory record of compliance with the immigration laws of Australia, if previously required to comply;
- nothing adverse is known to the Department of Immigration and Multicultural and Indigenous Affairs (the Department) about the applicant;
- the applicant has the capacity to provide or arrange apprenticeships for the number of persons the applicant seeks to sponsor as apprentices;
- if the applicant is to be the employer of the apprentice or apprentices, the applicant has a satisfactory record of, or demonstrated commitment towards, training Australia citizens and permanent residents;
- the applicant has given the undertaking required under new regulation 1.20UO [see below];
- the applicant is capable of complying with those undertakings; and
- the applicant intends to comply with those undertakings.

Regulation 1.20UM – Notice of decision concerning application

New regulation 1.20UM requires the Minister to give the applicant a copy of the written approval or refusal decision, and, if the application is refused, a statement of the reasons for refusal. An approval must state the date of approval, and the number of persons that the sponsor is approved to sponsor as apprentices.

Regulation 1.20UN – Terms of approval as approved trade skills training sponsor

New regulation 1.20UN prescribes, for the purposes of subsection 140G(2) of the Act, the following terms of approval as an approved trade skills training sponsor:

- the sponsor may sponsor as apprentices (for grant of a Subclass 471 (Trade Skills Training visa) the number of persons specified in the approval; and
- the approval ceases when the last of those persons is granted a visa, at the end of 24 months from the date of approval, or when the approval is cancelled, whichever is the earliest.

Regulation 1.20UO – Sponsorship undertakings

New regulation 1.20UO, which is made under subsection 140H(1) of the Act, prescribes the following undertakings that must be made by an applicant for approval as an approved trade skills training sponsor:

- to ensure that sponsored visa holders comply with the conditions of the visa;
- to ensure that persons sponsored as apprentices are genuine applicants and genuinely intend to complete an apprenticeship in Australia;
- not to employ any person who would breach the immigration laws of Australia by being employed;
- to give the Department accurate information, as soon as practicable, about any material change in the sponsor's circumstances; any matter that may affect the sponsor's ability to carry out its undertakings; any material change in the circumstances of a sponsored visa holder (including changes in accommodation); and any matter that may affect a sponsored visa holder's ability to comply with the conditions of the visa;
- to notify the Department of any change in a sponsored visa holder's location;
- to cooperate with the Department's monitoring of the sponsor, the employer and workplace of sponsored apprentices, and sponsored visa holders;
- to ensure that a sponsored visa holder maintains adequate health insurance cover in Australia;
- to ensure that adequate accommodation arrangements consistent with a reasonable standard of living in Australia are made and maintained for a sponsored visa holder;
- to ensure that a sponsored apprentice is employed in accordance with all relevant Commonwealth, State and Territory legislation dealing with employment and working conditions;
- to ensure that a person or body operating a sponsored apprentice's workplace has a satisfactory record of compliance with the immigration laws of Australia, is lawfully and actively operating in Australia, has a satisfactory record of (or demonstrated commitment towards) training Australian citizens and permanent residents, and has the capacity to provide the apprenticeship;
- to ensure that a sponsored apprentice signs a New Apprenticeship/training contract which is lodged as required under the New Apprenticeship Scheme within 3 months of the persons arrival in Australia (or grant of the visa, if granted while the applicant is in Australia) and remains in force while the sponsored apprentice continues to undertake the apprenticeship; and
- to notify the Department within 10 days if a sponsored apprentice ceases the approved employment or ceases to undertake the apprenticeship.

Regulation 1.20UP – Consequences if approved trade skills training sponsor or visa holder changes status

New regulation 1.20UP prescribes that, for the purposes of subsection 140Q(1) of the Act, the undertakings made by an applicant for approval as an approved trade skills training sponsor in accordance with new regulation 1.20UO [see above] remain enforceable until the sponsored person ceases to hold the relevant visa.

Subdivision 1.4E.3 – Cancelling or barring approval as an approved trade skills training sponsor

New subdivision 1.4E.3 consists of three new regulations 1.20UQ, 1.20UR and 1.20US.

Regulation 1.20UQ – Cancelling or barring approval as approved trade skills training sponsor

New subregulation 1.20UQ(1) prescribes, for the purposes of paragraphs 140J(2)(a) and 140K(1)(a) of the Act, the circumstances under which the Minister may take the actions mentioned in section 140L (relating to cancelling or barring approval as a sponsor) if an approved trade skills training sponsor breaches an undertaking, or if the other prescribed circumstances exist. The prescribed circumstances are:

- the Minister is no longer satisfied as to the matters mentioned in new regulation 1.20UL (relating to the criteria to be met for approval as a trade skills training sponsor);
- the Minister is satisfied that an approved trade skills training sponsor has breached an undertaking mentioned in new regulation 1.20UO;
- the Minister is no longer satisfied that the sponsor is able to comply with an undertaking required to have been made under new regulation 1.20UO; or
- the sponsor is found to have provided false or misleading information in its application for approval as an approved trade skills training sponsor, during the processing of that application, in relation to its sponsorship of an apprentice, or in the performance of any of its undertakings.

New subregulation 1.20UQ(2) prescribes, for the purposes of paragraphs 140J(2)(b) and 140K(1)(b) of the Act, the criteria to be taken into account in determining what action to take under section 140L. The prescribed criteria are:

- the severity of the breach or other conduct;
- the past conduct of the sponsor;
- the impact (if any) that the taking of the action may have on the Australian community; and
- whether barring the sponsor would be an inadequate means of dealing with the situation, having regard to relevant matters, including the seriousness of the inability or failure to comply, and the past conduct of the sponsor.

Regulation 1.20UR – Waiving a bar

New subregulation 1.20UR(1) provides that a Subclass 471 (Trade Skills Training) visa is prescribed for the purposes of subsection 140O(1) of the Act (which relates to waiving a bar on a sponsor.)

New subregulation 1.20UR(2) prescribes, for the purposes of subsection 140O(2) of the Act, that the circumstance under which the Minister may waive a bar placed on an approved trades skills training sponsor is that the sponsor (or former sponsor) has requested, in writing, that the bar be waived.

New subregulation 1.20UR(3) prescribes under subsection 140O(3) of the Act that the criteria to be taken into account by the Minister in deciding whether to waive a bar on an approved trade skills training sponsor are:

- whether there would be significant social, economic or political benefits to Australia if the bar were waived;
- whether there has been a substantial change in the sponsor's (or former sponsor's) circumstances that would significantly minimise the likelihood of further breaches or unacceptable conduct;
- whether the benefits to Australia and the change in the sponsor's (or future sponsor's) circumstances outweigh the severity of the breach of undertakings or other conduct that resulted in the bar; and
- if the Minister has previously refused to waive the bar, whether the Minister is satisfied that the circumstances relevant to the above criteria have changed substantially since that refusal.

Regulation 1.20US – Giving notice about a bar, waiving a bar or cancellation

New subregulation 1.20US(1) provides that if the Minister takes action under section 140L and 140O of the Act (relating to cancelling and approval as a sponsor, and waiving a bar, respectively) in relation to an approved trade skills training sponsor, notice is to be given to the sponsor or former sponsor in accordance with section 494B of the Act (relating to the methods by which the Minister is to give documents to a person).

New subregulation 1.20US(2) provides that the notice must specify which of the prescribed circumstances applied to result in the bar or cancellation, the specific action to be taken, and, if the action is to bar an approved trade skills training sponsor, the duration of the bar.

Subdivision 1.4E.4 – General

New subdivision 1.4E.4 consists of new regulation 1.20UT.

Regulation 1.20UT – Disclosure of personal information

New regulation 1.20UT is made in accordance with section 140V of the Act, to prescribe the personal information about a holder or former holder of a Subclass 471 (Trade Skills Training) visa that the Minister may disclose to an approved trade skills training sponsor or former sponsor, and the circumstances under which disclosure is permitted.

New regulation 1.20UT also sets out the circumstances in which an approved trade skills training sponsor or former sponsor may use or disclose the personal information provided by the Minister.

The personal information that may be disclosed under new regulation 1.20UT is information that relates to the obligations of approved trade skills training sponsors or former sponsors under their sponsorship undertakings. The information may be disclosed by the Minister where disclosure is necessary to allow the sponsor or former sponsor to respond to a claim about conduct that may lead to action cancelling or barring approval as an approved trade skills training sponsor, to allow the sponsor or former sponsor to meet a liability or perform an obligation relating to their sponsorship of the person to whom the information relates, or in connection with review of a decision to cancel or bar approval as a trade skills training sponsor. Sponsors or former sponsors may use the information relevant to any of the circumstances in which it may be disclosed to them.

Item [3] – After paragraph 2.07AO(3)(m)

This item inserts new paragraph 2.07AO(3)(ma) in Part 2 of the Principal Regulations. The effect of new paragraph 2.07AO(3)(ma) is to enable a person specified in subregulation 2.07AO(2) to make a valid application for a Subclass 471 (Trade Skills Training) visa.

Item [4] – After paragraph 2.43(1)(la)

This item inserts new paragraph 2.43(1)(lb) after paragraph 2.43(1)(la) in Part 2 of the Principal Regulations.

The purpose of new paragraph 2.43(1)(lb) is prescribe grounds, in accordance with paragraph 116(1)(g) of the Act, under which the Minister may cancel a Subclass 471 (Trade Skills Training) visa if the Minister is satisfied that the grounds apply to the visa holder. The prescribed grounds are that the approved trade skills training sponsor of the visa holder:

- has failed to comply with a sponsorship undertaking;
- does not continue to satisfy the requirements for approval as a trade skills training sponsor; or
- has provided incorrect or misleading information to the Department of Immigration and Multicultural and Indigenous Affairs.

Item [5] – After subregulation 4.02(1A)

This item inserts new subregulation 4.02(1B) after subregulation 4.02(1A) in Part 4 of the Principal Regulations.

New subregulation 4.02(1B) prescribes a Subclass 471 (Trade Skills Training) visa for the purposes of paragraph 338(2)(d) of the Act. The effect of this amendment is that a decision to refuse an application for the grant of a Subclass 471 (Trade Skills Training) visa to a non-citizen is an *MRT-reviewable decision* provided that the applicant was in the migration zone at the time of application and was sponsored by an approved trade skills training sponsor, or a review of a decision not to approve the sponsor is pending.

Item [6] – After paragraph 4.02(4)(g)

This item inserts new paragraph 4.02(4)(ga) after paragraph 4.02(4)(g) in Part 4 of the Principal Regulations.

The purpose of new paragraph 4.02(4)(ga) is to prescribe a decision to refuse an application for approval as an approved trade skills training sponsor as an *MRT-reviewable decision*, in accordance with subsection 338(9) of the Act.

Item [7] – After paragraph 4.02(4)(h)

This item inserts new paragraph 4.02(4)(ha) after paragraph 4.02(4)(h) in Part 4 of the Principal Regulations.

The purpose of new paragraph 4.02(4)(ha) is to prescribe a decision to cancel or bar approval as an approved trade skills sponsor as an *MRT-reviewable decision*, in accordance with subsection 338(9) of the Act.

Item [8] – Sub-subparagraph 4.02(4)(l)(ii)(E)

This item inserts a semi-colon at the end of sub-subparagraph 4.02(4)(l)(ii)(E) in Part 4 of the Principal Regulations, consequential upon the insertion of new paragraph 4.02(4)(m) by item [9] of this Schedule (below).

Item [9] – After paragraph 4.02(4)(l)

This item inserts new paragraph 4.02(4)(m) after paragraph 4.02(4)(l) in Part 4 of the Principal Regulations.

New paragraph 4.02(4)(m) prescribes as an *MRT-reviewable decision*, in accordance with subsection 338(9) of the Act, a decision to refuse the grant of a Subclass 471 (Trade Skills Training) visa where the applicant was outside of Australia at the time of application and was sponsored by an approved trade skills training sponsor.

Item [10] – After paragraph 4.02(5)(f)

This item inserts new paragraph 4.02(5)(fa) after paragraph 4.02(5)(f) in Part 4 of the Principal Regulations.

New paragraph 4.02(5)(fa) prescribes, for the purposes of paragraph 347(2)(d) of the Act, that an application for review of a decision prescribed in new paragraph 4.02(4)(ga) (inserted in the Principal Regulations by item [6] of this Schedule (above); may be made only by the applicant for approval as an approved trades skills training sponsor.

Item [11] – After paragraph 4.02(5)(g)

This item inserts new paragraph 4.02(5)(ga) after paragraph 4.02(5)(g) in Part 4 of the Principal Regulations.

New paragraph 4.02(5)(ga) prescribes, for the purposes of paragraph 347(2)(d) of the Act, that an application for review of a decision prescribed in new paragraph 4.02(4)(ha) (inserted in the Principal Regulations by item [7] of this Schedule (above); may be made only by the approved trades skills training sponsor or former approved trades skills training sponsor.

Item [12] – Paragraph 4.02(5)(k)

This item inserts a semi-colon at the end of paragraph 4.02(5)(k) in Part 4 of the Principal Regulations, consequential upon the insertion of new paragraph 4.02(5)(l) by item [13] of this Schedule (below).

Item [13] – After paragraph 4.02(4)(k)

This item inserts new paragraph 4.02(5)(l) after paragraph 4.02(4)(k) in Part 4 of the Principal Regulations.

New paragraph 4.02(5)(l) prescribes, for the purposes of paragraph 347(2)(d) of the Act, that an application for review of a decision prescribed in new paragraph 4.02(4)(m), inserted in the Principal Regulations by item [9] of this Schedule (above); may be made only by the sponsor.

Part 2 – Amendments of Schedule 1

Item [14] – Subitem 1220B(1)

This item substitutes subitem 1220B(1) in Part 2 of Schedule 1 to the Principal Regulations with new subitem 1220B(1).

New subitem 1220B(1) retains, in paragraph 1220B(1)(a), the existing requirement that an application for a Subclass 470 (Professional Development) visa must be made on form 1227; and adds a new requirement, in paragraph 1220B(1)(b), that an application for a Subclass 471 (Trade Skills Training) visa must be made on form 1261.

Item [15] – Subitem 1220B(2)

This item substitutes subitem 1220B(2) in Part 2 of Schedule 1 to the Principal Regulations with new subitems 1220B(2) and (2A).

New subitem 1220B(2) retains the existing requirement that the visa application charge (VAC) payable in respect of an application for a Subclass 470 (Professional Development) visa is a first instalment of $170 and a second instalment of nil.

New subitem 1220B(2A) prescribes the VAC payable in respect of an application for a Subclass 471 (Trade Skills Training) visa.

New paragraph 1220B(2A)(a) provides that a first instalment of $140 is payable by an applicant who is the holder of a Subclass 471 visa and seeks a further Subclass 471 visa as an apprentice to complete an apprenticeship in respect of which the first Subclass 471 visa was granted and for a period not exceeding that of the first visa but with a different approved trade skills training sponsor. The first instalment payable in any other case is $420.

New paragraph 1220B(2A)(b) provides that no second instalment is payable by an applicant who:

- holds a Subclass 471 visa and seeks a further Subclass 471 visa on the basis of satisfying the primary criteria, to complete the apprenticeship for which the first visa was granted; or
- claims to be a spouse or dependent child of an applicant who holds a Subclass 471 visa granted on the basis of satisfying the primary criteria.
- The second instalment payable in any other case is $3,300.

Item [16] – After paragraph 1220B(3)(c)

This item inserts new paragraphs (d), (e), (f), (g) and (h) in subitem 1220B of Part 2 of Schedule 1 to the Principal Regulations.

The purpose of these new paragraphs is to prescribe other requirements for making a valid application for a Subclass 471 (Trade Skills Training) visa. These requirements are that:

- an application must include evidence of sponsorship by an approved trade skills training sponsor, or proposed sponsorship by an individual or organisation that has applied for approval as a trade skills training sponsor;
- an application must be lodged by the sponsor or applicant for approval as an approved trade skills training sponsor;
- an application must be made by posting it to, having it delivered by courier to, or faxing it to an address specified in a Gazette Notice;
- an application by a person seeking to satisfy the primary criteria must include evidence that the person has been offered an apprenticeship;
- an application may be made by a person who is inside or outside Australia, but not in immigration clearance; and
- an application by a person claiming to be the spouse or dependent child of another applicant seeking to satisfy the primary criteria may be made at the same time and place as, and combined with, the application by that other applicant.

Item [17] – Subitem 1220B(4)

This item substitutes subitem 1220B(4) in Part 2 of Schedule 1 to the Principal Regulations with new subitem 1220B(4).

New subitem 1220B(4) provides that the subclasses of the Sponsored Training (Temporary)(Class UV) visa are the existing Subclass 470 (Professional Development) and new Subclass 471 (Trade Skills Training), inserted in Schedule 2 to the Principal Regulations by item [20] of this Schedule (below).

Part 3 – Amendments of Schedule 2

Item [18] – Sub-subparagraph 457.211(a)(ii)(C)

This item removes the word ‘or’ at the end of sub-subparagraph 457.211(a)(ii)(C) in Part 457 of Schedule 2 to the Principal Regulations, consequential upon the insertion of new sub-subparagraph 457.211(a)(ii)(D) by item [19] of this Schedule (below).

Item [19] – After sub-subparagraph 457.211(a)(ii)(C)

This item inserts new sub-subparagraph 457.211(a)(ii)(D) after sub-subparagraph 457.211(a)(ii)(C) in Part 457 of Schedule 2 to the Principal Regulations.

The purpose of new sub-subparagraph 457.211(a)(ii)(D) is to provide that a person meets a primary criterion for the grant of a Subclass 457 (Business (Long Stay)) visa if at the time of application the person is the holder of a Subclass 471 (Trade Skills training) visa.

Item [20] – After Part 470

This item inserts new Part 471 after Part 470 in Schedule 2 to the Principal Regulations.

New Part 471 sets out the criteria and other requirements that an applicant for a Sponsored Training (Temporary) (Class UV) visa must meet for the grant of a Subclass 471 (Trade Skills Training) visa.

Details of the criteria and other requirements are as follows:

Division 471.1 - Interpretation

New clause 471.111 provides that in Part 471, the terms *apprentice*, *apprenticeship* and *organisation* have the same meanings as in new regulation 1.20UJ (inserted in Part 1 of the Principal Regulations by item [2] of this Schedule, above).

A Note advises the reader that the term *approved trade skills training sponsor* is defined in regulation 1.03 of the Principal Regulations (new definition of *approved trade skills training sponsor* inserted in regulation 1.03 by item [1] of this Schedule, above).

Division 471.2 – Primary Criteria

New Division 471.2 sets out the criteria that must be satisfied by an applicant for the grant of a Subclass 471 (Trade Skills Training) visa for the purpose of temporary residence in Australia to train as an apprentice.

New Subdivision 471.21 (Criteria to be satisfied at the time of application) requires that if the applicant is in Australia, the applicant:

- is aged between 18 and 34; and
- holds a substantive visa other than a Subclass 679 (Sponsored Family Visitor) visa or Special Purpose visa; or
- if the applicant does not hold a substantive visa, the last substantive visa held by the applicant must not have been a Subclass 679 (Sponsored Family Visitor) visa or Special Purpose visa, and the applicant must meet criteria 3003, 3004 and 3005 of the additional criteria applicable to unlawful non-citizens and certain holder of bridging visas, in Schedule 3 to the Principal Regulations.

New Subdivision 471.22 (Criteria to be satisfied at time of decision) includes the following main requirements:

Clauses 471.221 to 471.229A require that the applicant:

- if in Australia, has complied substantially with the conditions of his or her substantive visa and any subsequent bridging visa;
- has made satisfactory arrangements to undertake an apprenticeship;
- is a genuine applicant for a Subclass 471 visa (having regard to previous compliance with Australia's immigration laws, stated intention to comply with conditions, and any other relevant matter);
- has an appropriate level of education, qualifications and skills to undertake an apprenticeship in Australia;
- has health insurance cover in Australia that the Minister considers adequate;
- has the financial capacity to meet costs associated with the apprenticeship and living, travel and school costs of any accompanying dependents;
- satisfies criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014 in Schedule 4 (Public interest criteria and related provisions) to the Principal Regulations;
- if previously in Australia, satisfies criteria 5001 and 5002 in Schedule 5 (Special return criteria) to the Principal Regulations;
- has vocational English; and
- is sponsored by an approved trade skills training sponsor that is not subject to a bar.

Clauses 471.229B and 471.229C make the following requirements in relation to the applicant's sponsorship:

- the sponsor has made the undertakings mentioned in regulation 1.20UO (inserted in the Principal Regulations by item [2] of this Schedule, above) in relation to the applicant; and
- approval of the application would not result in exceeding the number of apprentices that the sponsor has been approved to sponsor.

Clauses 471.229D to 471.229J inclusive make the following requirements in relation to the applicant's proposed employment and apprenticeship:

- the proposed employment will comply with relevant workplace legislation;
- nothing adverse is known about the proposed employer;
- the proposed apprenticeship will be in a trade that the Minister considers to be an acceptable trade, in a trade in which the Minister considers there is a shortage of skilled workers, and in a location that the Minister considers to be a regional area;
- the sponsor has provided evidence that the proposed apprenticeship position has been certified by a body approved by the Minister as being a position that was unable to be filled by local recruitment;
- on the basis of that certification, the Minister is satisfied that the position has been unable to be filled by local recruitment;
- the proposed apprenticeship has not been created only for the purposes of securing the applicant's entry to, or continuing stay in, Australia;
- the individual or organisation operating the workplace where the apprenticeship will be undertaken has a satisfactory record of compliance with the immigration laws of Australia, is lawfully and actively operating in Australia, has a satisfactory record of or demonstrated commitment towards training Australian citizens and permanent residents, and has the capacity to provide the apprenticeship to the applicant.

The remaining requirements in clauses 471.229K and 471.229L are that:

- if the applicant is an Australian Agency for International Development (AusAID) student or recipient, the AusAID Minister supports the grant of the visa, unless the Minister waives this requirement on the specified grounds; and
- the applicant is the holder of a valid passport unless it would be unreasonable to require the applicant to be the holder of a passport.

Division 471.3 – Secondary criteria

New Division 471.3 sets out the criteria that must be satisfied by an applicant for the grant of a Subclass 471 (Trade Skills Training) visa in order to be permitted to accompany to Australia a person who satisfies the primary criteria.

New Subdivision 471.31 (Criteria to be satisfied at the time of application) requires that the applicant must be the spouse or dependent child of a person who seeks to satisfy or who has satisfied the primary criteria. In addition, if the applicant is in Australia, the applicant:

- holds a substantive visa other than a Subclass 679 (Sponsored Family Visitor) visa or Special Purpose visa; or
- if the applicant does not hold a substantive visa, the last substantive visa held by the applicant must not have been a Subclass 679 (Sponsored Family Visitor) visa or Special Purpose visa, and the applicant must meet criteria 3003, 3004 and 3005 of the additional criteria applicable to unlawful non-citizens and certain holders of bridging visas, in Schedule 3 to the Principal Regulations.

New Subdivision 471.32 (Criteria to be satisfied at time of decision) makes the following main requirements:

- the applicant continues to be the spouse or dependent child of a person who satisfies the primary criteria and is the holder of a Subclass 471 visa;
- the applicant is sponsored by the same approved trade skills training sponsor as the person who satisfied the primary criteria, and the sponsor has made the undertakings mentioned in regulation 1.20UL in relation to the applicant;
- if the applicant is outside Australia and the application is made separately from that of the person who satisfies the primary criteria, that person is or is soon expected to be in Australia;
- if the applicant is in Australia, the applicant has complied substantially with the conditions of his or her visa;
- the applicant has health insurance cover in Australia that the Minister considers adequate;
- if the applicant is not included in the application of the person who satisfied the primary criteria, that person has the financial capacity to support himself or herself as well as the applicant in Australia;
- the applicant satisfies criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014 in Schedule 4 (Public interest criteria and related provisions) to the Principal Regulations;
- if the applicant has not turned 18, criteria 4017 and 4018 in Schedule 4 (Public interest criteria and related provisions) to the Principal Regulations are satisfied in relation to the applicant;
- if previously in Australia, the applicant satisfies criteria 5001 and 5002 in Schedule 5 (Special return criteria) to the Principal Regulations;

- if the applicant is an AusAID student or recipient, the AusAID Minister supports the grant of the visa, unless the Minister waives this requirement on the specified grounds; and
- the applicant is the holder of a valid passport unless it would be unreasonable to require the applicant to be the holder of a passport.

Division 471.4 – Circumstances applicable to grant

New clause 471.411 provides that the applicant may be in Australia (but not in immigration clearance) or outside Australia when the visa is granted.

Division 471.5 – When visa is in effect

New clause 471.511 provides that new Subclass 471 (Trade Skills Training) visa is a temporary visa, permitting the holder to travel to and enter Australia on one or more occasions until a date specified by the Minister, and to remain until a date specified by the Minister.

Division 471.6 – Conditions

New clause 471.611 provides that conditions 8303, 8501, 8514, 8516, 8544, 8545 and 8546 in Schedule 8 to the Principal Regulations must be imposed on a visa granted to a person who satisfies the primary criteria. (New conditions 8544, 8545 and 8546 are inserted in Schedule 8 to the Principal Regulations by item [23] of this Schedule, below.)

New clause 471.612 provides that in relation to a visa granted to a person who satisfies the secondary criteria, conditions 8303, 8501, 8514 and 8516 in Schedule 8 to the Principal Regulations must be imposed, and conditions 8502, 8515 and 8518 may be imposed.

Division 471.7 – Way of giving evidence

New clause 471.711 provides that no evidence of the grant of a Subclass 471 (Trade Skills Training) visa need be given.

New clause 471.712 provides that if evidence is given, it is to be given by way of a visa label affixed to a valid passport.

Item [21] – Subclause 857.212(1)

This item amends subclause 857.212(1) of Part 857 of Schedule 2 to the Principal Regulations, to insert a reference to new subclause 857.212(8), inserted in Part 857 of Schedule 2 to the Principal Regulations by item [22] of this Schedule, below.

Item [22] – After subclause 857.212(7)

This item inserts new subclause 857.212(8) in Part 857 of Schedule 2 to the Principal Regulations. The effect of new subclause 857.212(8) is that an applicant for a Subclass 857 (Regional Sponsored Migration Scheme) visa may satisfy a time of application criterion for grant of that visa if the applicant is the holder of a Subclass 471 (Trade Skills Training) visa who has completed the apprenticeship for which the visa was granted.

Part 4 – Amendments of Schedule 8

Item [23] – After clause 8543

This item inserts three new conditions in Schedule 8 (Visa conditions) to the Principal Regulations.

These three new conditions must be imposed on a Subclass 471 (Trade Skills Training) visa granted to an applicant who satisfies the primary criteria. See new clause 471.611, inserted in Schedule 2 to the Principal Regulations by item [20] of this Schedule, above.

New condition 8544 requires that the holder of the visa must enter into a contract or agreement of apprenticeship within 3 months of the date of the grant of the visa, if granted while the person is in Australia, or within 3 months of the person's arrival in Australia if the visa is granted when the person is outside Australia.

New condition 8545 requires that the visa holder must undertake the apprenticeship in the employment in respect of which the visa was granted and must not, without the written permission of the Department of Immigration and Multicultural and Indigenous Affairs, cease to undertake the apprenticeship in the relevant employment, or engage in an activity which is inconsistent with undertaking the apprenticeship.

New condition 8546 requires that the visa holder while undertaking the apprenticeship must maintain contact with the sponsoring approved trade skills training sponsor, and must co-operate with and to the best of the holder's ability facilitate compliance with the sponsor's undertakings.

Schedule 8– Amendments relating to professional development visas

Part 1 General amendments

Item [1] – Regulation 1.20M, before definition of *employed*

This item inserts definitions for *agreement rules* and *Australian organisation* in Regulation 1.20M in Division 1.4C 'Sponsorship: professional development' of Part 1 of the Principal Regulations.

The first new definition provides that the term *agreement rules*, in relation to a professional development agreement, means the rules set out in subregulation 1.20NA(4) of these Regulations, by item [18] of this Schedule (below).

The purpose of this amendment is to set out the *agreement rules* in Division 1.4C of Part 1 of the Principal Regulations, for the purposes of specifying the terms of a professional development agreement, by item [7] of this Schedule (below).

The second new definition provides that the term *Australian Organisation* in Division 1.4C of Part 1 of the Principal Regulations means an organisation that is lawfully established in Australia.

Item [2] – Regulation 1.20M, after definition of *employed*

This item inserts a new definition for the term *government agency* in Regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations.

The new definition provides that the term *government agency* means an agency of the Commonwealth or of a State or Territory.
The purpose of this amendment is to define the term *government agency* in order to expand the sponsorship and funding arrangements under a professional development agreement, so that a government agency can sponsor and/or fund participants under the agreement. It also serves the purpose of clarifying the terms of the professional development agreement.

Item [3] – Regulation 1.20M, definition of *organisation*

This item substitutes the definition of *organisation* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations with a new definition of *organisation*.

The new definition defines the term *organisation* to mean a body corporate or an unincorporated body other than an individual or sole trader.

This amendment is consequential to the insertion of the definition of *Australian organisation* in regulation 1.20M of Division 1.4C of Part1 of the Principal Regulations by these Regulations, by item [1] of this Schedule (above), and the definition of the *agreement rules* in subregulation 1.20NA(4) of Division 1.4C of Part 1 of the Principal Regulations by these Regulations, by item [18] of this Schedule (below).

Item [4] – Regulation 1.20M, definition of *overseas agreement*

This item omits the definition of *overseas agreement* from regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations.

This amendment is consequential to the inclusion of the new definition of *professional development agreement* in regulation 1.20M of Division 1.4C of Part 1 of the Principal Regulations, by item [7] of this Schedule (below)

Item [5] – Regulation 1.20M, definition of *overseas employer*, sub-subparagraph (a)(ii)(B)

This item omits the words ‘the costs of which are met wholly by the organisation’ from sub-subparagraph 1.20M(a)(ii)(B) of the definition of *overseas employer* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations.

This amendment is consequential to the expansion of funding arrangements permitted under a professional development agreement.

Item [6] – Regulation 1.20M, definition of *overseas employer*, sub-subparagraph (b)(ii)(B)

This item omits the words 'the costs of which are wholly met by the agency' from the definition of *overseas employer* in sub-subparagraph 1.20M(b)(ii)(B) in Regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations.

This amendment is consequential to the expansion of funding arrangements permitted under a professional development agreement.

Item [7] – Regulation 1.20M, after definition of *overseas participant*

This item inserts definitions for *participant costs*, *professional development agreement*, and *professional development program* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations.

The term *participant costs*, for an overseas participant in a professional development program conducted by an approved professional development sponsor, is defined to mean the costs of:

- the overseas participant's travel to and entry to Australia;
- the overseas participant's tuition for the professional development program;
- the overseas participant's accommodation in Australia;
- the overseas participant's living expenses in Australia;
- the overseas participant's health insurance in Australia; and
- the overseas participant's return travel from Australia.

This amendment is consequential to the omission of *overseas agreement* from regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations, by item [4] of this Schedule (above).

The term *professional development agreement* is defined to mean an agreement that complies with the *agreement rule*, defined by item [1] of this Schedule (above).

The purpose of this amendment is to define the term *professional development agreement* to reflect the expansion of the funding arrangements under the agreement.

The term *professional development program* is defined to mean a program that meets the requirements specified in paragraph 1.20NA(2)(a) in Division 1.4C of Part 1 of the Principal Regulations.

The purpose of this amendment is to provide a definition of the term *professional development program* that is used throughout Division 1.4C of Part 1 of the Principal Regulations.

Item [8] – Subregulation 1.20N(1)

This item substitutes subregulation 1.20N(1) in Division 1.4C of Part 1 of the Principal Regulations with new subregulation 1.20N(1).

New subregulation 1.20N(1) provides that, for the purposes of subsection 140F(1) of the Act, an application to the Minister for approval as an approved professional development sponsor may only be made by an Australian organisation or a government agency that has entered into a professional development agreement that is in force at the time of making the application.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement, whereby both Australian organisations and government agencies may apply for approval as an approved professional development sponsor. The amendment also clarifies that an Australian organisation or government agency must have entered into a professional development agreement before applying for approval. It is anticipated that the agreement will have a condition in it to the effect that its operation is subject to approval by the Department of the applicant as an approved professional development sponsor.

Item [9] – Subregulation 1.20N(3)

This item substitutes subregulation 1.20N(3) in Division 1.4C of Part 1 of the Principal Regulations with new subregulation 1.20N(3).

New subregulation 1.20N(3) provides that if an application to become an approved professional development sponsor is not made by a Commonwealth agency, the application must be accompanied by a fee of $1 050.

The purpose of the amendment is to waive sponsorship application fees for Commonwealth Government agencies applying for approval as a professional development sponsor, to reflect Departmental policy. The exemption does not apply to State or Territory agencies, nor does it apply to non-executive Commonwealth Government institutions or agencies.

Item [10] – Subregulation 1.20NA(1)

This item omits the words ‘of an organisation’ from subregulation 1.20NA(1) of Part 1 of the Principal Regulations.

The effect of this amendment is that, for section 140E of the Act, the criteria for approval as an approved professional development sponsor are that the Minister is satisfied of the criteria specified in the paragraphs of this subregulation, and approval is no longer limited to an ‘organisation’ as previously defined.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [11] – Paragraph 1.20NA(2)(a)

This item omits the words ‘professional development’ from paragraph 1.20NA(2)(a) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is that a program, to meet the criteria to be approved as an approved professional development program, must comply with the requirements set out in the subparagraphs to this paragraph.

This amendment is consequential to the inclusion of the definition of *professional development program* in regulation 1.20M of the Principal Regulations, by item [7] of this Schedule (above).

Item [12] – Sub-subparagraph 1.20NA(2)(a)(iii)(A)

This item replaces ‘12’ with ‘18’ in sub-subparagraph 1.20NA(2)(a)(iii)(A) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that the duration of a professional development program must not exceed18 months.

The purpose of this amendment is to increase the period of professional development programs from 12 to 18 months to meet concerns raised by industry in relation to the low participation rate under the professional development program and reflect the sort of programs in demand by participants.

Item [13] – Paragraph 1.20NA(2)(c)

This item substitutes paragraph 1.20NA(2)(c) with new paragraphs 1.20NA(2)(c), 1.20NA(2)(ca), 1.20NA(2)(cb) and 1.20NA(2)(cc) in Division 1.4C of Part 1 of the Principal Regulations.

New paragraph 1.20NA(2)(c) provides that, before approving an application for approval as a professional development sponsor, the Minister must be satisfied that the applicant has entered into a professional development agreement that is in force at the time of the Minister’s consideration of the application.

New paragraph 1.20NA(2)(ca) provides that, before approving an application for approval as a professional development sponsor, the Minister must be satisfied that each of the parties to the agreement has the capacity to meet their financial commitments.

New paragraph 1.20NA(2)(cb) provides that, before approving an application for approval as a professional development sponsor, the Minister must be satisfied that all of the participant costs of an overseas participant in a professional development program that an applicant is offering to conduct will be met.

New paragraph 1.20NA(2)(cc) provides that, before approving an application for approval as a professional development sponsor, the Minister must be satisfied that an overseas participant will not be required to pay their costs of tuition for the professional development program.

The purpose of this amendment is to reflect the expansion of the funding arrangements under a professional development agreement, to ensure that suitable checks are made on the ability of the parties to the agreement to meet the costs under the agreement, and ensure that overseas participants are not required to pay any of their tuition costs for the professional development program. Overseas participants are not permitted to meet tuition costs to ensure that employers have a tangible interest in those employees that they nominate. It also ensures that the professional development visa is not used as an easier alternative by people who should apply for a student visa but may not meet the English or financial requirements for a student visa.

Item [14] – Paragraph 1.20NA(2)(d)

This item replaces the word 'applicant' with the words 'applicant and each of the other parties with which the applicant has a current professional development agreement' in paragraph 1.20NA(2)(d) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that the applicant and each of the other parties with which the applicant has a current professional development agreement are not or do not intentionally provide support to:

- a proscribed person or entity within the meaning of section 14 of the *Charter of the United Nations Act 1945*; and
- a terrorist organisation or organisation which the person knows to be a terrorist organisation, or a member of a terrorist organisation, within the meaning of Division 102 of the *Criminal Code*.

This amendment is consequential to the expansion of the sponsorship and funding arrangements under a professional development agreement where additional parties can fund components of the program under the agreement.

Item [15] – Paragraph 1.20NA(2)(g)

This item substitutes the reference to the term *overseas agreement* with the term *professional development agreement* in paragraph 1.20NA(2)(g) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that, before approving an application for approval as a professional development sponsor, the Minister must be satisfied that if an overseas employer with which the applicant has a current professional development agreement has previously been required to comply with the immigration laws of Australia – the overseas employer has a satisfactory record of compliance.

This amendment is consequential to the omission of the definition of *overseas agreement* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by these Regulations, by item [4] of this Schedule (above), and the insertion of new definition of *professional development agreement* in Division 1.4C of Part 1 of the Principal Regulations by item [7] of this Schedule (above).

Item [16] – Paragraph 1.20NA(2)(i)

This item omits paragraph 1.20NA(2)(i) from Division 1.4C of Part 1 of the Principal Regulations.

This amendment is consequential to the amendments made to subregulation 1.20NA(2)(d) in Division 1.4C of Part 1 of the Principal Regulations by item [14] of this Schedule (above).

Item [17] – Subregulation 1.20NA(3)

This item replaces the words 'by an organisation for approval as an approved professional development sponsor' with the words 'under subregulation 1.20N(1)'in paragraph 1.20NA(3) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that, as soon as practicable after deciding an application under subregulation 1.20N(1), the Minister must give the applicant a copy of the written approval or refusal of the application, and, if the application was refused, a statement of the reasons for the refusal.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [18] – After subregulation 1.20NA(3)

This item inserts new subregulation 1.20NA(4) after subregulation 1.20NA(3) in Division 1.4C of Part 1 of the Principal Regulations.

New subregulation 1.20NA(4) provides that the definition of *agreement rules* in relation to a professional development agreement means the following rules:

- the parties to the agreement must be the applicant and the overseas employer of a person who would be an overseas participant;
- the applicant must be either:
  - an Australian organisation that has been actively operating in Australia for at least 1 year before making the agreement, or does not meet that requirement but has been approved by the Minister for the purposes of this provision; or
  - a government agency;
- there may be other parties to the agreement that must be either Australian organisations or government agencies;
- the agreement must specify who is responsible for the participant costs of persons who would be overseas participants;
- the agreement must include:
  - a description of the professional development program and what is intended to be provided by the sponsor; and
  - a description of the roles of each of the parties under the agreement; and
  - the details of the duration of the agreement; and
  - arrangements for mediation of disputes and other conflict resolution arrangements; and
  - any arrangements made by the sponsor to subcontract any part of the provision of the professional development agreement; and

  - a description of the arrangements for insurance relating to the sponsor;
  - a description of the arrangements for recovery of costs if the sponsor, or another provider of the professional development program acting for the sponsor, ceases operations for any reason; and
  - a description of the characteristics of the persons whom the overseas employer proposes to select as overseas participants, and how overseas participants will be selected;
- if proposed overseas participants will be expected to pay for some of their participation costs (other than tuition costs), the agreement must contain:
  - a statement setting out that the proposed overseas participants will be expected to meet the costs set out; and
  - a declaration from the overseas employer that the employer will not select an employee to be an overseas participant without being first satisfied that the employee can meet those costs;
- the agreement is signed and dated by representatives of each party who are authorised to sign the agreement.

The purpose of this amendment is to clarify the terms of the professional development agreement for which approval as a professional development sponsor can be given, as well as reflect the expansion of the sponsorship and funding arrangements under the agreement. This is also a technical amendment and is consequential to the omission of the definition of *overseas agreement* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by item [4] of this Schedule (above).

Item [19] – Paragraph 1.20O(1)(b)

This item replaces the word ‘overseas’ with the words ‘professional development’ in paragraph 1.20O(1)(b) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that approval as an approved professional development sponsor for the purposes of subsection 140G(2) of the Act has effect only in relation to, among other things, the professional development agreement or agreements specified in the application for approval.

This amendment is consequential to the omission of the definition of *overseas agreement* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by item [4] of this Schedule (above), and the insertion of new definition of *professional development agreement* in Division 1.4C of Part 1 of the Principal Regulations by item [7] of this Schedule (above).

Item [20] – Paragraph 1.20O(1)(c), note
This item substitutes the Note in paragraph 1.20O in Division 1.4C of Part 1 of the Principal Regulations with a new Note.

The new Note makes it clear that if an approved professional development sponsor wishes to prepare a new professional development program, make a new agreement, or offer an existing professional development program to a new overseas employer, the sponsor must apply under regulation 1.20N ‘Process for making application to become an approved professional development sponsor’ in the Principal Regulations for a new approval as an approved professional development sponsor in relation to the new arrangement.

The purpose of the amendment is to clarify that a prospective professional development sponsor is required to apply for a new approval where they are entering into a new professional development agreement, regardless of the terms or parties under the agreement. This is also a technical amendment and is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [21] – After subregulation 1.20O(1)

This item inserts new subregulations 1.20O(1A), 1.20O(1B), 1.20O(1C) and 1.20O(1D) after subregulation 1.20O(1) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of new paragraphs 1.20O(1A), 1.20O(1B), 1.20O(1C) and 1.20O(1D) is to provide that approval as an approved professional development sponsor for the purposes of subsection 140G(2) of the Act, has as terms the following matters:

- an authorised officer may require the sponsor to give additional security for compliance with the provisions of the Act and the Principal Regulations in relation to the applicant's undertakings as an approved professional development sponsor, or a condition imposed under the Act or the Principal Regulations in relation to the applicant's undertakings as an approved professional development sponsor;
- the additional security may be required if the security given under paragraph 1.20NA(1)(b) of the Principal Regulations (which requires an applicant to give security where requested by an authorised officer for the purposes of becoming an approved professional development sponsor) by the sponsor has been called upon so that the amount of the security remaining is zero or an amount that is less than the amount of the security given;
- if an authorised officer has required the sponsor to give additional security under these new subregulations, the sponsor must give the security within 28 days, or such longer period as the Minister allows, after the requirement has been made.

The purpose of the amendment is to clarify that an authorised officer of the Department may require additional security from an approved professional development sponsor and clarifies the timeframe for the requirement to be met. This is only in circumstances where some or all of the original security has already been called upon for compliance with the applicant's undertakings under regulation 1.20P in Division 1.4C of Part 1 of the Principal Regulations as an approved professional development sponsor.

Item [22] – Subregulation 1.20O(2)

This item replaces the words 'approval of an organisation' with the words 'an approval' in subregulation 1.20O(2) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that, for subsection 140G(2) of the Act, an approval as a professional development sponsor ceases to have effect from the earliest of the subsequent paragraphs, and approval is no longer limited to an 'organisation' as previously defined.

This amendment is consequential to the expansion of possible sponsorship arrangements under a professional development agreement.

Item [23] – Subparagraph 1.20O(2)(b)(i)

This item replaces the word ‘overseas’ with the words ‘professional development’ in paragraph 1.20O(2)(b)(i) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that an approval as an approved professional development sponsor for the purposes of subsection 140G(2) of the Act ceases to have effect on the earliest of, among other things, the ending of the professional development agreement specified in the application for approval.

This amendment is consequential to the omission of the definition of *overseas agreement* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by these Regulations, by item [4] of this Schedule (above), and the insertion of a new definition of *professional development agreement* in Division 1.4C of Part 1 of the Principal Regulations by item [7] of this Schedule (above).

Item [24] – Paragraph 1.20P(1)(a)

This item substitutes paragraph 1.20P(1)(a) in Division 1.4C of Part 1 of the Principal Regulations with new paragraph 1.20P(1)(a).

New paragraph 1.20P(1)(a) provides that for subsection 140H(1) of the Act (which deals with sponsorship undertakings), the undertakings that an applicant for approval as an approved professional development sponsor must make are to ensure that the participant costs of an overseas participant are met while the participant is the holder of a Subclass 470 (professional Development) visa.

The purpose of this amendment is to ensure that in the event a party to the professional development agreement fails to meet its financial obligations for the purposes of funding the participant’s costs under the agreement, the approved professional development sponsor will assume full responsibility of meeting those costs. The sponsor will in turn have recourse under the agreement, whereby he or she will be able to seek indemnity from the overseas employer or other entity to the agreement for any such costs. Previously this undertaking was limited to airfare costs.

Item [25] – Paragraph 1.20P(1)(m)

This item replaces the words ‘subregulation (2))’ with the words ‘subregulation (2)); and’ in paragraph 1.20P(1)(m) in Division 1.4C of Part 1 of the Principal Regulations.

This is a technical amendment and is consequential to the insertion of paragraph 1.20P(1)(n) in Division 1.4C of Part 1 of the Principal Regulations by item [26] of this Schedule (below).

Item [26] – After paragraph 1.20P(1)(m)

This item inserts new paragraph 1.20P(1)(n) after paragraph 1.20P(1)(m) in Division 1.4C of Part 1 of the Principal Regulations.

New paragraph 1.20P(1)(n) provides that for subsection 140H(1) of the Act (which deals with sponsorship undertakings), the undertakings that an applicant for approval as an approved professional development sponsor must make are to pay to the Commonwealth any security sought under new subregulation 1.20O(1B) (see item [21] of this Schedule (above)) within the time provided for in that subregulation.

The purpose of this amendment is to allow the Minister to cancel or bar a sponsorship under regulation 1.20Q in Division 1.4C of the Principal Regulations if the sponsor fails to comply with a request to provide additional security, or if the Minister is no longer satisfied that the sponsor is able to provide additional security for the purposes of subregulation 1.20O(1B) of these Regulations (see item [21] of this Schedule (above)).

Item [27] – Regulation 1.20PB, table, after item 2

This item inserts new item 2A into the table in regulation 1.20PB of Division 1.4C of Part 1 of the Principal Regulations.

New item 2A provides that for subsection 140Q(1) of the Act, the undertaking in new paragraph 1.20P(1)(n) arising out of the sponsorship of the holder of a Subclass 470 (Professional Development) visa remains enforceable against the sponsor concerned until the time when the security is given.

The purpose of this amendment is to ensure that the undertaking to give the Commonwealth any security sought under subregulation 1.20O(1B) of these Regulations in subregulation 1.20P(1)(n) (see item [26] of this Schedule (above)) remains enforceable until the time in which it is given by the approved professional development sponsor.

Item [28] – Subregulation 1.20R(2)

This item substitutes subregulation 1.20R(2) in Division 1.4C of Part 1 of the Principal Regulations with new subregulation 1.20R(2).

New subregulation 1.20R(2) provides that, for subsection 140O(2) of the Act, a circumstance in which the Minister may waive a bar placed on an approved professional development sponsor, or a former approved professional development sponsor, under section 140J or 140K of the Act is that the sponsor, or former sponsor, has requested in writing that the bar be waived.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [29] – Paragraph 1.20R(3)(b)

This item replaces the word ‘organisation’s’ with the words ‘sponsor’s, or former sponsor’s’ in paragraph 1.20R(3)(b) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that, for subsection 140O(3) of the Act, one of the criteria to be taken into account by the Minister in determining whether to waive a bar is that there has been a substantial change to the sponsor's, or former sponsor's, circumstances significantly minimising the likelihood of further breaches or unacceptable conduct in other circumstances.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [30] – Paragraph 1.20R(3)(c)

This item replaces the word 'organisation's' with the words 'sponsor's, or former sponsor's' in paragraph 1.20R(3)(c) in Division 1.4C of Part 1 of the Principal Regulations.

The effect of this amendment is to provide that, for subsection 140O(3) of the Act, one of the criteria to be taken into account by the Minister in determining whether to waive a bar is that the benefits to Australia and the change in the sponsor's or former sponsor's circumstances outweigh the severity of the breach of undertakings or other conduct that resulted in the bar.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Item [31] Regulation 1.20S

This item substitutes regulation 1.20S in Division 1.4C of Part 1 of the Principal Regulations with a new regulation 1.20S.

New regulation 1.20S provides that, if the Minister takes action mentioned in section 140L or 140O of the Act in relation to an approved professional development sponsor, or a former approved professional development sponsor, the Minister must give the sponsor or former sponsor notice of the action in accordance with section 494B of the Act. A Note to the regulation advises that where the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

This amendment is consequential to the expansion of the sponsorship arrangements under a professional development agreement.

Part 2 – Amendments of Schedule 2

Item [32] – Clause 470.111

This item substitutes new clause 470.111 in Part 470 (Subclass 470 - Professional Development) of Schedule 2 to the Principal Regulations.

New clause 470.111 provides that, in Part 470, the terms *employed*, *professional development agreement*, and *overseas employer* have the same meaning as in regulation 1.20M. It also includes a Note that *approved professional development sponsor* is defined in regulation 1.03 of the Principal Regulations.

This is a consequential amendment. The term *organisation* which was previously referred to by this clause is not used anywhere in Part 470 and is accordingly removed. It also renames *overseas agreement* as *professional development agreement*, consequential to the omission of the definition of *overseas agreement* in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by item [4] of this Schedule (above), and the insertion of a new definition of *professional development agreement* in Division 1.4C of Part 1 of the Principal Regulations by item [7] of this Schedule (above).

Item [33] – After clause 470.111

This item inserts new clause 470.112 after clause 470.111 in Part 470 (Subclass 470 - Professional Development) of Schedule 2 to the Principal Regulations.

New clause 470.112 provides that in Part 470 of Schedule 2 to the Principal Regulations, *applicable agreement* in relation to an applicant, means the professional development agreement that the applicant's approved professional development sponsor has with the applicant's overseas employer.

The purpose of this amendment is to clarify that the reference to *applicable agreement* in Part 470 of Schedule 2 to the Regulations means the professional development agreement (as defined in regulation 1.20M in Division 1.4C of Part 1 of the Principal Regulations by item [7] of this Schedule (above)) under which the applicant seeks the professional development visa.

Item [34] – Clause 470.227

This item substitutes clause 470.227 in Part 470 (Subclass 470 - Professional Development) of Schedule 2 to the Principal Regulations with new clause 470.227.

New clause 470.227 provides that the Minister must be satisfied that there is no information indicating that any of the parties to the applicable agreement are unable to meet their financial commitments under the agreement.

The purpose of the amendment is to permit the Minister to refuse to grant a visa where there is information that indicates that Australian taxpayers might have to pay for some or all of the costs of an overseas participant in relation to the professional development program, because a party to the applicable agreement is unable to meet their obligations in accordance with the requirements of the agreement.

Item [35] – After clause 470.233

This item inserts new clause 470.234 after clause 470.233 in Part 470 (Subclass 470 - Professional Development) of Schedule 2 to the Principal Regulations.

New clause 470.234 provides that the Minister must be satisfied that there is no evidence to suggest that the applicant will not be able to meet costs which, as specified in the applicable agreement, they are to meet.

The purpose of this amendment is to permit the Minister to refuse to grant a visa where there is evidence to suggest that the visa applicant does not have the financial means to meet some or all of the participant costs where these are set out in the agreement as being the responsibility of the visa applicant (the overseas participant).

This is important to ensure that Australian taxpayers do not have to pay for any participant costs in relation to the professional development program.

Schedule 9 – Amendments relating to student career relevance

Item [1] – Clause 5A206

This item substitutes clause 5A206 in Schedule 5A to the Principal Regulations with new clause 5A206.

New clause 5A206 retains some of the requirements of the previous clause 5A206 for a student visa applicant who seeks a subclass 570 (Independent ELICOS Sector) visa, and who is subject to Assessment Level 4, but new clause 5A206 omits the career relevance requirement.

New clause 5A206 does not require the applicant to give evidence that satisfies the Minister that the applicant needs English language tuition to obtain employment, to improve their prospects of promotion, to improve their prospects of obtaining other employment or to perform the functions of their current position.

This amendment removes the career relevance requirement which is highly subjective and may exclude genuine students who may want to retrain or learn new skills, but whose present occupation may be unrelated to the proposed study.

Item [2] – Subclause 5A406(1)

This item substitutes subclause 5A406(1) in Schedule 5A to the Principal Regulations with new subclause 5A406(1).

New subclause 5A406(1) retains some of the requirements of the previous subclause 5A406(1) for a student visa applicant who seeks a Subclass 572 (Vocational Education and Training Sector) visa, and who is subject to Assessment Level 4, but new subclause 5A406(1) omits the career relevance requirement.

New subclause 5A406(1) does not require the applicant to give evidence that the applicant's principal course will enhance the development of the applicant's career, assist the applicant to obtain employment, assist the applicant to improve their prospects of promotion or assist the applicant to improve their prospects of obtaining other employment.

This amendment has the same effect as the amendment made by item [1] of this Schedule (above).

Item [3] – Clause 5A409

This item substitutes clause 5A409 in Schedule 5A to the Principal Regulations with new clause 5A409.

New clause 5A409 retains some of the requirements of the previous clause 5A409 for a student visa applicant who seeks a Subclass 572 (Vocational Education and Training Sector) visa, and who is subject to Assessment Level 3, but new clause 5A409 omits the career relevance requirement.

New clause 5A409 does not require the applicant to give evidence that the applicant's principal course will enhance the development of the applicant's career, assist the applicant to obtain employment, assist the applicant to improve their prospects of promotion or assist the applicant to improve their prospects of obtaining other employment.

This amendment has the same effect as the amendment made by item [1] of this Schedule (above).

Item [4] – Clause 5A706

This item substitutes clause 5A706 in Schedule 5A to the Principal Regulations with new clause 5A706.

New clause 5A706 retains some of the requirements of the previous clause 5A706 for a student visa applicant who seeks a Subclass 575 (Non-Award Sector) visa, and who is subject to Assessment Level 4, but new clause 5A706 omits the career relevance requirement.

New clause 5A706 does not require the applicant to give evidence that the applicant's principal course will assist the applicant, in the applicant's home country, to obtain employment, to improve their prospects of promotion, to improve their prospects of obtaining other employment or to perform the functions of their current position.

This amendment has the same effect as the amendment made by item [1] of this Schedule (above).

Item [5] – Clause 5A709

This item substitutes clause 5A709 in Schedule 5A to the Principal Regulations with new clause 5A709.

New clause 5A709 retains some of the requirements of the previous clause 5A709 for a student visa applicant who seeks a Subclass 575 (Non-Award Sector) visa, and who is subject to Assessment Level 3, but new clause 5A709 omits the career relevance requirement.

New clause 5A709 does not require the applicant to give evidence that the applicant's principal course will assist the applicant, in the applicant's home country, to obtain employment, to improve their prospects of promotion, to improve their prospects of obtaining other employment or to perform the functions of their current position.

This amendment has the same effect as the amendment made by item [1] of this Schedule (above).

Schedule 10 - Amendments relating to student visas

Item [1] – Paragraph 5A204(c)

This item substitutes paragraph 5A204(c) in Schedule 5A to the Principal Regulations with new paragraph 5A204(c).

New paragraph 5A204(c) amends the English language proficiency requirements for Assessment Level 4 applicants for a Subclass 570 (Independent ELICOS Sector) visa. It provides alternative ways for applicants to satisfy English language proficiency requirements. The alternative ways relate to certain courses that are conducted outside Australia, and in English, and that are equivalent to certain courses that are conducted in Australia and in English.

Applicants who seek to meet English proficiency requirements by providing evidence of their previous study in Australia are no longer required to be in Australia at the time of making the application.

Applicants for a Subclass 570 (Independent ELICOS Sector) visa may be in or outside Australia at the time of making the application.

New subparagraph 5A204(c)(i) retains the provision from the previous sub-subparagraph 5A204(c)(ii)(A) in Schedule 5A to the Principal Regulations. An applicant meets English language proficiency requirements if the applicant had successfully completed the requirements for a Senior Secondary Certificate of Education less than two years before making the application.

New subparagraph 5A204(c)(ii) provides that an applicant meets the English language proficiency requirements if the applicant had successfully completed the requirements for a Senior Secondary Certificate of Education, that was conducted outside Australia and in English, less than two years before making the application. The course is to be specified by the Minister in a Gazette Notice.

New subparagraph 5A204(c)(iii) retains the provision from the previous sub-subparagraph 5A204(c)(ii)(B) in Schedule 5A to the Principal Regulations. An applicant meets English language proficiency requirements if the applicant is a student visa holder and, less than two years before making the application, the applicant had successfully completed a substantial part of a course, other than a foundation course. The course must have been conducted in English and must have been leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher.

New subparagraph 5A204(c)(iv) provides that an applicant meets English language proficiency requirements if, less than two years before making the application, the applicant had successfully completed a substantial part of a course that was conducted outside Australia and in English. The course must have been leading to a qualification from the Australian Qualifications Framework at the Certificate IV or higher and is to be specified by the Minister in a Gazette Notice.

New subparagraph 5A204(c)(v) retains the provision from the previous sub-subparagraph 5A204(c)(ii)(C) that an applicant meets the English language proficiency requirements if the applicant had successfully completed a foundation course less than two years before making the application.

New subparagraph 5A204(c)(vi) provides that an applicant meets the English language proficiency requirements if the applicant had successfully completed a course in foundation studies, that was conducted outside Australia and in English, less than two years before making the application. The course is to be specified by the Minister in a Gazette Notice.

Item [2] – Paragraph 5A404(d)

Item [3] – Paragraph 5A407(d)

Item [4] – Paragraph 5A504(1)(d)

Items [2], [3] and [4] amend the respective provisions, with the same effect as the amendments made by item [1] of this Schedule (above).

Item [5] – Paragraph 5A506(c)

This item substitutes paragraph 5A506(c) in Schedule 5A to the Principal Regulations with new paragraph 5A506(c).

New paragraph 5A506(c) amends the education qualification requirements for Assessment Level 4 applicants for a Subclass 573 (Higher Education Sector) visa.

The purpose of this item is to provide these applicants with additional opportunities to access higher education.

New subparagraph 5A506(c)(i) retains the provisions of the previous subparagraph 5A506(c)(i), that an applicant must give evidence of having successfully completed secondary schooling to the year 11 level, or its equivalent.

New subparagraph 5A506(c)(ii) retains the provision of the previous subparagraph 5A506(c)(ii), that the applicant must provide evidence of a certificate of enrolment in a foundation course. In addition it inserts a new provision to retain consistency between subparagraph 5A506(c)(ii) and subparagraph 5A509(c)(ii), so that the certificate of enrolment needs to be for a foundation course that is to be undertaken before the applicant’s principal course commences.

It also inserts a new provision that the foundation course is to be undertaken in Australia.

New paragraph 5A506(d) provides an additional opportunity to access higher education for applicants who give evidence that they have successfully completed secondary schooling to the Year 11 or its equivalent, and have successfully completed a course in foundation studies that was conducted outside Australia, and is specified in a Gazette Notice.
New paragraph 5A506(e) provides an additional opportunity to access higher education for applicants who give evidence that they have successfully completed a qualification from the Australian Qualifications Framework at the Certificate level IV or higher, in a course that was conducted in Australia.

New paragraph 5A506(f) provides an additional opportunity to access higher education for applicants who give evidence that they have a certificate of enrolment in a course that leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher. The applicant needs to undertake this course in Australia before commencing their principal course.

New paragraph 5A506(g) provides an additional opportunity to access higher education for applicants who give evidence that they have successfully completed a qualification from the Australian Qualifications Framework at the Certificate level IV or higher, where the course was conducted outside Australia, and is specified in a Gazette Notice.

Item [6] – Paragraph 5A507(1)(d)

This item amends paragraph 5A507(1)(d) in Schedule 5A to the Principal Regulations, with the same effect as the amendments made by item [1] of this Schedule (above).

Item [7] - Paragraph 5A509(c)

This item amends paragraph 5A509(c) in Schedule 5A to the Principal Regulations, with the same effect as the amendments made by item [5] of this Schedule (above).

Item [8] – Paragraph 5A604(2)(d)

Item [9] – Paragraph 5A607(2)(d)

Item [10] – Paragraph 5A704(d)

Item [11] – Paragraph 5A707(d)

Items [8], [9], [10] and [11] amend the respective provisions, with the same effect as the amendments made by item [1] of this Schedule (above).

Schedule 11 – Technical Amendments

Part 1 – Amendments of Regulations

Item [1] – Division 1.2, first note

This item amends the Note after the heading for Division 1.2 in Part 1 of the Principal Regulations, by omitting the reference to the ‘list of Defined Terms at the front of the Regulations’.

The purpose of this amendment is to remove an obsolete reference, as the List of Defined Terms is no longer included in the Principal Regulations.

Item [2] – Subparagraph 1.20IA(a)(ii)

This item amends subparagraph 1.20IA(a)(ii) in Part 1 of the Principal Regulations by replacing the words 'a valid visa' with 'a visa that is in effect'.

The purpose of this amendment is to clarify the meaning of 'valid visa' and to maintain consistency of language in references to visas.

Item [3] – Subparagraph 1.20T(a)(ii)

This item amends subparagraph 1.20T(a)(ii) in Part 1 of the Principal Regulations, with the same purpose as the amendments made by item [2] of this Schedule (above).

Item [4] – Paragraph 2.20(12)(e)

This item amends paragraph 2.20(12)(e) in Part 2 of the Principal Regulations by replacing '; and' at the end of the paragraph with a full stop.

The purpose of this amendment is to correct an inadvertent error that referred to a following paragraph. Paragraph 2.20(12)(f) was previously omitted from the Principal Regulations by the *Migration Amendment Regulations 2005 (No. 5)* on 16 June 2005.

Item [5] – Subparagraph 3.03(3)(f)(ii)
This item amends subparagraph 3.03(3)(f)(ii) in Part 3 of the Principal Regulations by replacing a full stop with '; and' at the end of the subparagraph.

The purpose of this amendment is to correct an inadvertent omission and to clarify that the provision includes the following paragraph 3.03(3)(g).

Item [6] – Subparagraph 3.03(3)(g)(ii)

This item amends subparagraph 3.03(3)(g)(ii) in Part 3 of the Principal Regulations by replacing '; and', with a full stop at the end of the subparagraph.

The purpose of this amendment is to correct an inadvertent error where there is no following paragraph.

Part 2 – Amendments of Schedule 1

Item [7] – Subparagraph 1128BA(3)(j)(ii)

This item amends subparagraph 1128BA(3)(j)(ii) of Schedule 1 to the Principal Regulations by replacing the words 'meet the criteria' with 'satisfy the criteria'.

The purpose of this amendment is to provide consistency between the provisions relating to satisfying criteria in the Principal Regulations and the *Migration Act 1958*, which refer to criteria being 'satisfied' rather than 'met'.

Item [8] – Subparagraph 1128BA(3)(j)(iii)

This item amends subparagraph 1128BA(3)(j)(iii) of Schedule 1 to the Principal Regulations, with the same purpose as the amendments made by item [7] of this Schedule (above).

Item [9] – Paragraph 1218A(3)(c)

This item amends paragraph 1218A(3)(c) of Schedule 1 to the Principal Regulations by replacing the word 'subclause' with 'subitem'.

The purpose of this amendment is to correct the legislative reference.

Part 3 – Amendments of Schedule 2

Item [10] – Subdivision 051.21, heading

This item amends the heading for Subdivision 051.21 of Schedule 2 to the Principal Regulations by replacing the words 'Criteria to be met at time of application' with 'Criteria to be satisfied at time of application'.

The purpose of this amendment is to provide consistency of references in Schedule 2 to the Principal Regulations, to criteria being 'satisfied' rather than 'met'.

Item [11] – Subdivision 051.22, heading

This item amends the heading for Subdivision 051.22 of Schedule 2 to the Principal Regulations by replacing the words 'Criteria to be met at time of decision' with 'Criteria to be satisfied at time of decision', with the same purpose as item [10] of this Schedule (above).

Item [12] – Subdivision 070.21, heading

Item [13] – Subdivision 070.22, heading

Items[12] and [13] amend the respective provisions, with the same purpose as item [10] of this Schedule (above).

Item [14] – Clause 309.111, definition of *intended spouse*

This item amends clause 309.111 in Schedule 2 to the Principal Regulations by omitting the reference to subparagraph 309.211(3)(a)(iv) from the definition of 'intended spouse'.

The purpose of this amendment is to remove an obsolete reference as subparagraph 309.211(3)(a)(iv) was previously omitted from the Principal Regulations by the *Migration Amendment Regulations 2001 (No. 1)* on 27 February 2001.

Item [15] – Clause 309.223

This item amends clause 309.223 in Schedule 2 to the Principal Regulations by omitting the reference to paragraph 309.211(2)(d).

The purpose of this amendment is to remove an obsolete reference as paragraph 309.211(2)(d) was previously omitted from the Principal Regulations by the *Migration Amendment Regulations 2001 (No. 1)* on 27 February 2001.

Item [16] – Before Division 410.2

This item amends Part 410 of Schedule 2 to the Principal Regulations by inserting the heading '410.1 Interpretation' and a Note for Division 410.1.

The Note in Division 410.1 advises that there are no interpretation provisions that are specific to Part 410.

The purpose of this amendment is to correct the inadvertent omission of this provision by the *Migration Amendment Regulations 2005 (No. 3*) on 1 July 2005.

Item [17] – Sub-subparagraph 572.227(c)(iii)(C)

This item amends sub-subparagraph 572.227(c)(iii)(C) of Schedule 2 to the Principal Regulations by removing the word 'visa'.

The purpose of this amendment is to remove an inadvertent and unnecessary word and provide consistency with similar provisions in Schedule 2 to the Principal Regulations.

Item [18] – Subparagraph 572.312(2)(d)(iii)

Item [19] – Subparagraph 573.211(2)(d)(iii)

Item [20] – Sub-subparagraph 573.227(c)(iii)(C)

Item [21] - Subparagraph 573.312 (2)(d)(iii)

Item [22] – Subparagraph 574.211(2)(d)(iii)

Item [23] – Sub-subparagraph 574.227(c)(iii)(C)

Item [24] – Subparagraph 574.312(2)(d)(iii)

Item [25] – Subparagraph 580.211(2)(d)(iii)

Item [26] – Sub-subparagraph 580.227(c)(iii)(C)

Item [27] – Subparagraph 580.311(2)(d)(iii)

Items [18], [19], [20], [21], [21], [22], [23], [24], [25], [26] and [27] amend the respective provisions, with the same purpose as the amendments made by item [17] of this Schedule (above).

Item [28] – Subparagraph 773.213(1)(g)(i)

This item amends subparagraph 773.2136(1)(f)(i) in Schedule 2 to the Principal Regulations, by replacing the words 'has entered Australia without a valid visa' with 'has entered Australia without a visa that is in effect'.

The purpose of this amendment is to clarify the meaning, as in items [2] and [3] of this Schedule (above).

Part 4 – Amendments of Schedule 5

Item [29] – Paragraph 5010(3)(b)
This item amends paragraph 5010(3)(b) in Schedule 5 to the Principal Regulations by replacing the words 'AusAID visa' with 'AusAID student visa'.

The purpose of this amendment is to clarify the meaning of 'AusAID visa' and provide consistency within clause 5010.

Item [30] – Sub-subparagraph 5010(4)(a)(i)(B)

This item amends sub-subparagraph 5010(4)(a)(i)(B), with the same purpose as the amendments made by item [30] of this Schedule (above).

Schedule 12 – Amendments relating to Subclasses 151 and 832 visas

Item [1] – Item 1115

This amendment omits Item 1115 of Schedule 1 to the Principal Regulations.

The effect of this amendment is to remove Special Eligibility (Residence) (Class AO) visa from the Principal Regulations.

This amendment is consequential to changes made by this Schedule to collapse the Special Eligibility (Residence) (Class AO) (Subclass 832) and Special Eligibility (Migrant) (Class AR) (Subclass 151) into a new streamlined Special Eligibility (Class CB) (Subclass 151) visa. The criteria and other requirements for these visas were very similar – the major difference being that Class AO applied to offshore applicants and Class AR applied to onshore applicants.

The new Class CB visa will be available to both offshore and onshore applicants, and the criteria and requirements will mirror those applying before 1 November 2005 to Subclasses 151 and 832.

As a consequence of these changes, after 1 November 2005, applicants seeking a permanent visa on the basis of having been a former resident of Australia, or having served in the Australian armed forces, may apply for a Class CB visa. Classes AO and AR are being omitted from the Regulations. Applicants with outstanding applications for Class AO or AR visas will continue to have their application processed and decided under the pre-1 November 2005 legislation.

From 1 November 2005, applicants who would have satisfied the requirements leading to the grant of a Special Eligibility (Residence) (Class AO) (Subclass 832) or Special Eligibility (Migrant) (Class AR) (Subclass 151) visa, will not be disadvantaged by the changes, as the amended Subclass 151 visa incorporates all the criteria and requirements for the Subclass 832 and Subclass 151 visas. Amendments to Part 151 of Schedule 2 have been necessary to identify the appropriate applicant group and their physical location (offshore or onshore) in order to correlate the appropriate visa requirements.

Item [2] – Item 1118

This amendment substitutes Item 1118 of Schedule 1 to the Principal Regulations, which set out the requirements for a valid visa application for a Special Eligibility (Migrant) visa (Class AR), with new Item 1118A.

This amendment establishes a new visa class - Special Eligibility (Class CB) – and sets out the form, visa application charge and other requirements to be met in order to make a valid application for the new Class CB visa.

This amendment is consequential to the collapse of the Special Eligibility (Migrant)(Class AR) visa and the Special Eligibility (Residence) (Class AO) visa into one new, streamlined Special Eligibility (Class CB) visa.
As a consequence, after 1 November 2005, applicants who may have previously been eligible for a Special Eligibility (Residence) (Class AO) (Subclass 832) or Special Eligibility (Migrant) (Class AR) (Subclass 151) may be eligible for a Special Eligibility (Class CB) (Subclass 151) visa.

From 1 November 2005, applicants who would have satisfied the requirements leading to the grant of a Special Eligibility (Residence) (Class AO) (Subclass 832) or Special Eligibility (Migrant) (Class AR) (Subclass 151) visa, will not be disadvantaged by the changes, as the amended Subclass 151 visa incorporates all the criteria and requirements for the Subclass 832 and Subclass 151 visas. Amendments to Part 151 of Schedule 2 have been necessary to identify the appropriate applicant group and their physical location (offshore or onshore) in order to correlate the appropriate visa requirements.

Item 1118A, Schedule 1

New subitem 1118A(1) provides that the applicant must apply on form 47SV.

New subparagraph 1118A(2)(a)(i) provides that the first instalment of the visa application charge (payable at the time the application for the visa is made), if the applicant is in Australia, is $1935.

New subparagraph 1118A(2)(a)(ii) provides that the first instalment of the visa application charge, payable at the time the application for the visa is made, if the applicant is outside Australia, is $1305.

New subparagraph 1118A(2)(b)(i) provides that the second instalment of the visa application charge, payable before grant of the visa, in the case of each applicant who was 18 years old or more at the time of application and is assessed as not having functional English is $2690. For all other applicants, new subparagraph 1118A(2)(b)(ii) provides that there is no second instalment of the visa application charge.

New subitem 1118A(3) sets out the other Schedule 1 requirements that are required to be met by applicants in order to make a valid application for the new Special Eligibility (Class CB) visa.

New subparagraph 1118A(3)(a)(i) provides that the application may be made by posting the application, with the correct pre-paid postage, to the post office box address specified by the Minister in a Gazette Notice for this subparagraph.

New subparagraph 1118A(3)(a)(ii) provides that an application may be made by having the application delivered by courier service to the address specified by the Minister in a Gazette Notice for this subparagraph.

New paragraph 1118A(3)(b) provides that an application by a person claiming to be a member of the family unit of a person who is an applicant for a Special Eligibility (Class CB) visa may be made at the same time and place as, and combined with, the application by that person.

New subitem 1118A(4) provides that there is only one visa subclass, Subclass 151 (Former Resident) visa, in the Special Eligibility (Class CB) visa.

Part 2 – Amendments of Schedule 2

Item [3] – Part 151

Part 151

This item substitutes Part 151 of Schedule 2 to the Principal Regulations with new Part 151.

The purpose of this amendment is to collapse the Special Eligibility (Residence) (Class AO) (Subclass 832) and Special Eligibility (Migrant) (Class AR) (Subclass 151) visas into a new streamlined Special Eligibility (Class CB) (Subclass 151) visa.

Amendments to subclass 151 are necessary to incorporate the criteria, other requirements, and visa conditions previously applying in relation to onshore applicants seeking a Subclass 832 visa.

After the heading a new Note is inserted which provides that this Subclass applies in relation to an application for a visa made on or after 1 November 2005. This is consequential to the changes made by items [1] and [2] of this Schedule (above), which omit Classes AR and AO from the Principal Regulations, and substitute new Class CB.

Division 151.1 Interpretation

New Division 151.1 provides the Interpretation for Part 151 of the Principal Regulations.

The interpretation provisions specific to this Part provide definitions of two applicant groups: the *long residence applicant* and the *defence service applicant*.

Australian Defence service is defined as service in the Military Forces of the Commonwealth under a notice served under section 26 of the *National Service Act 1951* as in force at any time before 26 November 1964; or service before 19 January 1981 either in the Permanent Forces as a member of the armed forces of a foreign country on secondment to, or duty with, the Permanent Forces if the member was a permanent resident of Australia during the period of service.

A *defence service applicant* is defined as an applicant who can satisfy the Minister that he or she has completed at least 3 months continuous Australian defence service, or was discharged before completing 3 months of Australian defence service because the applicant was medically unfit for service, or further service, and became medically unfit because of the applicant's Australian defence service.

A *long residence applicant* is defined as an applicant who can satisfy the Minister that he or she has spent the greater part of his or her life before the age of 18 in the migration zone as an Australian permanent resident; did not at any time acquire Australian citizenship; has maintained business, cultural or personal ties with Australia; and has not turned 45 at the time of application.

The term *Permanent Forces* has the same meaning as it has in the *Defence Service Act 1903*, which means the Permanent Navy, the Regular Army and the Permanent Air Force.

Division 151.2 Primary criteria

After the heading a Note is inserted which provides that the primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

Subdivision 151.21 Criteria to be satisfied at time of application

New Subdivision 151.21 provides the criteria that the applicant must satisfy at the time of application. These criteria mirror the criteria applicable, before 1 November 2005, to applicants for a Special Eligibility (Residence) (Class AO) (Subclass 832) visa and to applicants for a Special Eligibility (Migrant) (Class AR) (Subclass 151) visa.

New Clause 151.211 applies to applicants in Australia at the time of application. It provides that such applicants must either hold a substantive visa, other than a Subclass 771 (Transit) visa, or if the applicant is not the holder of a substantive visa, the visa held immediately before the expiry of the substantive visa was not a Subclass 771 (Transit) visa, and the applicant meets Schedule 3 criterion 3002. Criterion 3002 relates to additional criteria applicable to unlawful non-citizens and certain bridging visa holders.

New clause 151.211 is not required to be satisfied by applicants who are applying for a Subclass 151 outside Australia.

New Clause 151.212 provides that an applicant must be either a long residence or a defence service applicant as described in the Interpretation Division (Division 151.1).

Subdivision 151.22 Criteria to be satisfied at the time of decision

Subdivision 151.22 provides the criteria to be satisfied by the applicant at the time of decision. These criteria mirror the criteria applicable, before 1 November 2005, to applicants for a Special Eligibility (Residence) (Class AO) (Subclass 832) visa and to applicants for a Special Eligibility (Migrant) (Class AR) (Subclass 151) visa

New Clause 151.221 provides that the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010.

New Clause 151.222 provides that long residence applicants (as defined in Division 151.1) who are outside Australia at the time of decision must satisfy public interest criterion 4005.

New Clause 151.223 provides long residence applicants who are in Australia, and all defence service applicants (as defined in the Division151.1) must satisfy public interest criterion 4007.

The purpose of new clauses 151.222 and 151.223 is to ensure that all applicants meet the required medical criteria which require that all applicants who are under 18 years of age must satisfy PIC 4017 and 4018. This is to ensure that the best interests of the child are taken into consideration in deciding an application a Class CB visa.

New Clause 151.225 provides additional requirements for long residence applicants who are outside Australia, relating to the public interest criteria to be met by members of their family unit. The purpose of this provision is to ensure that all members of the family unit meet certain medical criteria whether or not they are applicants for the visa.

Paragraph 151.225(a) provides that each member of the family unit of the applicant, who is not himself or herself an applicant for a Class CB visa, must satisfy certain public interest criteria, including criterion 4005, unless the Minister is satisfied that it would be unreasonable to require that person to undergo an assessment in relation to that criterion.

Paragraph 151.225(b) provides that each member of the family unit who is an applicant for Class CB visa must satisfy certain public interest criteria.

New Clause 151.226 provides additional requirements for long residence applicants who are in Australia, and all defence service applicants, relating to the public interest criteria to be met by members of their family unit.

Paragraph 151.226(a) provides that each member of the family unit of the applicant, who is not himself or herself an applicant for a Class CB visa, must satisfy certain public interest criteria, including criterion 4007, unless the Minister is satisfied that it would be unreasonable to require that person to undergo an assessment in relation to that criterion.

Paragraph 151.226(b) requires that each member of the family unit who is an applicant for a Class CB visa must satisfy certain public interest.

New clause 151.227 makes it a requirement for defence service applicants that each member of the family unit, who or who is not an applicant for a Class CB visa, must satisfy public interest criteria 4001, 4002, 4003 and 4004. Members of the family unit who are applicants for a Class CB visa are also required to satisfy PIC 4009 and 4010.

New Clause 151.228 makes it a requirement for the primary applicant that any member of the family unit of the applicant, who is under 18 years of age and who is also an applicant for a Class CB visa, must satisfy public interest criteria 4015 and 4016.

The purpose for applicants under the age of 18 to satisfy these public interest criteria is to ensure that the best interest of the child are taken into consideration when deciding the visa application.

New Clause 151.229 requires applicants who are in Australia and have previously been in Australia to satisfy special return criteria 5001 and 5002.

New Clause 151.229A requires applicants who are outside Australia and have previously been in Australia to satisfy special return criteria 5001, 5002 and 5010.

New Clause 151.229B provides if the Minster has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

New clause 151.229C requires the applicant to hold an unaltered valid passport that was issued by an official source, unless the Minister is satisfied that it would be unreasonable to require the applicant to hold a passport.

New paragraph 151.229C(a) provides that the applicant must satisfy the Minister that they hold a valid passport that was issued to the applicant by an official source and the passport is in the form issued by that official source.

New paragraph 151.229C(b) provides that the Minister is satisfied that it would be unreasonable for the applicant to be a holder of a passport.

The purpose of these amendments is to ensure that passport details are collected prior to visa grant and are also available for entry processing purposes, including immigration clearance.

Division 151.3 Secondary criteria

After the heading a new Note is inserted which provides that the secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Subdivision 151.31 Criteria to be satisfied at the time of application

New Subdivision 151.31 provides the criteria that secondary applicants must satisfy at the time of application. These criteria mirror the criteria applicable, before 1 November 2005, to secondary applicants for a Special Eligibility (Residence) (Class AO) (Subclass 832) visa and to secondary applicants for a Special Eligibility (Migrant) (Class AR) (Subclass 151) visa.

New clause 151.311 provides that the applicant is a member of the family unit of a person who meets paragraphs 151.311(a) and (b).

New subclause 151.311(a) provides that the applicant is member of a family unit of a person who has applied for a Class CB visa.

New subclause 151.311(b) provides that the applicant is a member of the family unit of a person who appears to satisfy the primary criteria at the time of application criteria, and the Minister has not decided to grant or refuse to grant a visa to the person.

This provision is to ensure that only members of the family unit of a person who has satisfied the time of application primary criteria will meet the secondary time of application criteria.

Subdivision 151.32 Criteria to be satisfied at time of decision

New Subdivision 151.32 provides the criteria that secondary applicants must satisfy at the time of decision. These criteria mirror the criteria applicable, before 1 November 2005, to secondary applicants for a Special Eligibility (Residence) (Class AO) (Subclass 832) visa and to secondary applicants for a Special Eligibility (Migrant) (Class AR) (Subclass 151) visa.

New Clause 151.321 provides that the applicant must continue to be a member of the family unit of a person who has satisfied the primary criteria and is a holder of a Subclass 151 visa.

This provision ensures that applicants who have made an application based on being members of the family unit still continue to be a member of the family unit of a person who has been granted a Subclass 151 visa.

New Clause 151.322 provides that the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010.

New Clause 151.323 applies to a secondary applicant who is the member of the family unit of a long residence applicant (as defined in Division 151.1) who has satisfied the primary criteria and is the holder of a Subclass 151 visa, where the primary applicant was outside Australia at the time of his or her application. Such secondary applicants must satisfy public interest criteria 4005.

New Clause 151.324 applies to a secondary applicant who is the member of the family unit of a long residence applicant (as defined in Division 151.1) in Australia, or of a defence service applicant, where the primary applicant is the holder of a Subclass 151 visa. Such secondary applicants must satisfy public interest criteria 4007.

New clause 151.325 provides that a secondary applicant who has not turned 18 years must also satisfy public interest criteria 4017 and 4018.

New clause 151.326 provides that secondary applicants who are in Australia and have previously been in Australia must satisfy special return criteria 5001 and 5002.

New clause 151.327 provides that secondary applicants who are outside Australia and have previously been in Australia must satisfy special return criteria 5001, 5002 and 5010.

New clause 151.328 provides certain criteria where the Minister has requested an assurance of support. It provides that if the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that the secondary applicant is either included in the assurance of support given in relation to that person, and the assurance has been accepted by the Secretary of the Department of Family and Community Services, or is the subject of a separate assurance of support which has been accepted by the Secretary of the Department of Family and Community Services.

New clause 151.329 provides that the Minister must be satisfied that the secondary applicant either holds a valid passport that was issued to the applicant by an official source and the passport is in the form issued by that official source, or that it would be unreasonable for the applicant to be a holder of a passport. The purpose of this clause is to ensure that passport details are collected prior to visa grant and are also available for entry processing purposes, including immigration clearance.

Division 151.4 Circumstances applicable to grant

New clause 151.411 requires if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

New clause 151.412 requires if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

A Note is inserted after clause 151.412. The Note provides that the second instalment of the visa application charge must be paid before the visa can be granted.

Division 151.5 When visa is in effect

New clause 151.511 provides that the Class CB is a permanent visa that permits the holder to travel to and enter Australia for a period of 5 years for the date of grant.

Division 151.6 Conditions

New clause 151.611 specifies the mandatory and discretionary conditions to which an applicant who is outside Australia is subject. Applicants who were in Australia at the time of application are not subject to any mandatory or discretionary conditions.

New paragraph 151.611(a) provides that, for an applicant who was outside Australia at the time of application, his or her first entry to Australia must be made before a date specified by the Minister for the purpose.

New clause 151.611(b) provides that, for an applicant who was outside Australia at the time of application, condition 8502 may be imposed. Condition 8502 provides that the holder's must not enter Australia before the entry to Australia of a specified person.

Division 151.7 Way of giving evidence

New clauses 151.711 and 151.712 prescribe the way in which non-citizens provide evidence of their visa grant to the immigration clearance officer.

New clause 151.711 provides that no evidence needs to be given.

New clause 151.712 provides that if evidence is given, the evidence is to be given by way of a visa label affixed to a valid passport.

Item [4] – Part 832

This item omits Part 832 of Schedule 2 to the Principal Regulations.

This amendment is consequential to changes made by this Schedule to collapse the Special Eligibility (Residence) (Class AO) (Subclass 832) and Special Eligibility (Migrant) (Class AR) (Subclass 151) into a new streamlined Special Eligibility (Class CB) (Subclass 151) visa.

The new Class CB visa will be available to both offshore and onshore applicants, and the criteria and requirements will mirror those applying before 1 November 2005 to Subclasses 151 and 832.

As a consequence of these changes, after 1 November 2005, applicants seeking a permanent visa on the basis of having been a former resident of Australia may apply for a Class CB visa. Classes AO and AR are being omitted from the Regulations.

Applicants with outstanding applications for Class AO or AR visas will continue to have their application processed and decided under the pre-1 November 2005 legislation.

From 1 November 2005 applicants who would have satisfied the requirements leading to the grant of a Special Eligibility (Residence) (Class AO) (Subclass 832) or Special Eligibility (Migrant) (Class AR) (Subclass 151) visa will not be disadvantaged by the changes, as the amended Subclass 151 visa incorporates all the criteria and requirements for the Subclass 832 and Subclass 151 visas. Amendments to Part 151 of Schedule 2 have been necessary to identify the appropriate applicant group and their physical location (offshore or onshore) in order to correlate the appropriate visa requirements.