



Migration Amendment Regulations 2005 (No. 9)¹

Select Legislative Instrument 2005 No. 240

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

Dated 20 October 2005

JOHN LANDY
Administrator

By the Administrator's Command

AMANDA VANSTONE
Minister for Immigration and Multicultural and Indigenous
Affairs

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1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2005 (No. 9)*.

2 Commencement

These Regulations commence on 1 November 2005.

3 Amendment of *Migration Regulations 1994*

Schedules 1 to 12 amend the *Migration Regulations 1994*.

4 Transitional — Schedule 1

- (1) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 1, the *Migration Regulations 1994* 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.

5 Transitional — Schedule 2

- (1) 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.
- (2) Despite the amendments made by Part 1 of Schedule 2, the *Migration Regulations 1994* 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.

- (3) The amendments made by Part 2 of Schedule 2 apply in relation to an application for a visa:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005; or
 - (b) made on or after 1 November 2005.

6 Transitional — Schedule 3

- (1) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 3, the *Migration Regulations 1994*, 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.

7 Transitional — Schedule 4

- (1) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 4, the *Migration Regulations 1994* 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.

Note There are no transitional provisions for Schedule 5.

8 Transitional — Schedule 6

The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 November 2005.

Note There are no transitional provisions for Schedule 7.

9 Transitional — Schedule 8*Applications for approval as approved professional development sponsor*

- (1) If an application for approval as an approved professional development sponsor is made on or after 1 November 2005, the *Migration Regulations 1994*, as amended by Schedule 8 (the **new law**), apply in relation to the application.
- (2) If:
 - (a) an application for approval as an approved professional development sponsor is made before 1 November 2005; and
 - (b) 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 *Migration Regulations 1994* made by Schedule 8, the *Migration Regulations 1994*, 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

- (3) If:
 - (a) an application for a visa is made on or after 1 November 2005; and
 - (b) the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and
 - (c) the sponsor is approved under the new law;the new law applies in relation to the application for a visa.
- (4) Despite the amendments of the *Migration Regulations 1994* made by Schedule 8, if:
 - (a) the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and

- (b) 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.

10 Transitional — Schedule 9

- (1) The amendments made by Schedule 9 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 9, the *Migration Regulations 1994* 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.

11 Transitional — Schedule 10

- (1) The amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 10, the *Migration Regulations 1994* 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.

Note There are no transitional provisions for Schedule 11.

12 Transitional — Schedule 12

- (1) The amendments made by Schedule 12 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 12, the *Migration Regulations 1994* 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**
(regulation 3)

Part 1 **General amendments**

[1] **Paragraph 2.07AO (3) (h)**
omit

[2] **Paragraph 2.12BF (1) (h)**
omit

Part 2 **Amendments of Schedule 1**

[3] **Item 1204**
omit

[4] **Subitem 1205 (4)**
omit
424 (Public Lecturer)

[5] **Item 1210**
omit

[6] **Item 1212**
omit

[7] Item 1223

omit

Part 3 Amendments of Schedule 2

[8] Part 424, including heading

omit

[9] Part 425, including heading

omit

[10] Part 430, including heading

omit

[11] Part 432, including heading

omit

[12] Part 446, including heading

omit

Part 4 Amendments of Schedule 4

[13] Part 2, table, item 4053

omit

[14] Part 2, table, item 4054

omit

Schedule 2 Amendments relating to Skilled Migration visas

(regulation 3)

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

Division 1 General amendments

[1] Regulation 2.11, heading

substitute

2.11 Special provisions for certain visa applications that
are refused

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

substitute

(1) If:

(a) any of the following applications for a visa (a *first application*) has been made:

- (i) an application for a visa by a non-citizen made outside Australia;
- (ii) an application for any of the following visas made by a non-citizen in Australia:
 - (A) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (B) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (C) a Skilled — Independent Regional (Provisional) (Class UX) visa;

- (D) a Skilled — Independent (Migrant) (Class BN) visa;
 - (E) a Skill Matching (Migrant) (Class BR) visa;
 - (F) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (G) a Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (b) the first application has been refused; and
 - (c) it appears to the Minister, on the basis of the information available to the Minister, that, if the non-citizen had applied for a visa of a different class, the visa would be likely to have been granted;
- the Minister may invite the non-citizen to make an application (a *further application*) for a visa of the different class.
- (2) An invitation made under subregulation (1) is to be an invitation:
 - (a) if subparagraph (a) (i) applies, and the first application was for a permanent visa — to make an application for a permanent visa; or
 - (b) if subparagraph (a) (i) applies, and the first application was for a temporary visa — to make an application for a temporary visa; or
 - (c) if subparagraph (a) (ii) applies — to make an application for a visa of a class mentioned in that subparagraph.
- (2A) However:
 - (a) if the first application was for a Prospective Marriage (Temporary) (Class TO) visa, the Minister may invite the applicant to make a further application for both a Spouse (Provisional) (Class UF) visa and a Spouse (Migrant) (Class BC) visa; and
 - (b) if the first application was for both a Spouse (Provisional) (Class UF) visa and a Spouse (Migrant) (Class BC) visa, the Minister may invite the applicant to make a further application for a Prospective Marriage (Temporary) (Class TO) visa; and

-
- (c) if the first application was for a Return (Residence) (Class BB) visa, the Minister may invite the applicant to make a further application for a Resident Return (Temporary) (Class TP) visa.

[3] Subregulation 2.12 (1)

omit

(which limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused)

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

insert

Note 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.

[5] After subregulation 2.12 (3)

insert

- (4) For section 48 of the Act the following classes of visas are prescribed if, and only if, the person has received an invitation under regulation 2.11 to apply for a visa of that class:
- (a) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (b) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (d) a Skilled — Independent (Migrant) (Class BN) visa;
 - (e) a Skill Matching (Migrant) (Class BR) visa;
 - (f) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (g) a Skilled — New Zealand Citizen (Residence) (Class DB) visa.

Note 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.

Division 2 Amendments of Schedule 1

[6] Subitem 1128AA (2), at the foot

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

[7] Subitem 1128B (2), at the foot

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

[8] Subitem 1128BA (2), at the foot

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

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

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[10] Subitem 1128C (2), at the foot

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

[11] Subitem 1128CA (2), at the foot

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

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

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

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

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

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

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

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

insert

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

Division 3 Amendments of Schedule 2

[16] Clause 134.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[17] Clause 136.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[18] Clause 137.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[19] Clause 138.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[20] Clause 139.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[21] Clause 495.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[22] Clauses 495.227 and 495.228

substitute

495.227 The applicant is sponsored by a State or Territory government agency, the sponsorship has been accepted by the Minister, and the sponsorship is still in force.

[23] Clause 495.324

omit

[24] Clause 861.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[25] Clause 862.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

[26] Clause 863.111, definition of *completed*

substitute

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

Part 2 Further amendments

Division 1 General amendment

[27] After subregulation 2.26A (5)

insert

(5A) For Part 8 of Schedule 6A, if:

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

the prescribed number of points for the purposes of 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, if that item had been in force at the time of the assessment.

Note Item 6A82 of Part 8 of Schedule 6A commenced on 1 November 2005.

Division 2 Amendments of Schedule 2

[28] After clause 136.232

insert

136.233 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, under subregulation 2.26A (5A), 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 AUD100 000 in a designated security for a term of not less than 12 months.

[29] After clause 137.231

insert

- 137.232 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, under subregulation 2.26A (5A), 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 AUD100 000 in a designated security for a term of not less than 12 months.

[30] Clause 495.222, including the note

substitute

- 495.222 (1) If the applicant:
- (a) was an applicant for a Skilled — Independent (Migrant) (Class BN) visa; and
 - (b) was invited by the Minister, under regulation 2.08DA, to apply for a Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (c) made the application for the Skilled — Independent Regional (Provisional) (Class UX) visa not later than 6 months after the day when the applicant received the invitation;
- the applicant's 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.

(2) If subclause (1) does not apply, the applicant has the qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note Subdivision B of Division 3 of Part 2 of the Act provides in sections 92 to 96 for the application of a *points system*, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.6 of Part 2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister (Act, section 96).

[31] After clause 495.234

insert

495.235 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, under subregulation 2.26A (5A), 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 AUD100 000 in a designated security for a term of not less than 12 months.

Division 3 Amendment of Schedule 6A

[32] Part 8

substitute

Part 8 Bonus points qualification

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A81	<p>Application for:</p> <ul style="list-style-type: none"> • Skilled — Australian-sponsored (Migrant) (Class BQ) visa • Skilled — New Zealand Citizen (Residence) (Class DB) visa • Skilled — Independent Overseas Student (Residence) (Class DD) visa • Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa <p>The applicant:</p> <ul style="list-style-type: none"> (a) has deposited at least AUD100 000 in a designated security for a term of not less than 12 months; or (b) 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; or (c) 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 (d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A82	<p>Application for:</p> <ul style="list-style-type: none">• Skilled — Independent (Migrant) (Class BN) visa• Skilled — Independent Regional (Provisional) (Class UX) visa <p>The applicant:</p> <ul style="list-style-type: none">(a) has indicated in the application that the applicant is able and willing to deposit at least AUD100 000 in a designated security for a term of not less than 12 months; or(b) 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; or(c) 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(d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters	5

[3] Paragraph 2.27C (a)

substitute

(a) held:

- (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;
- authorising him or her to work during that period; and

Part 2 Amendments of Schedule 1

[4] Paragraph 1104B (3) (j)

omit

the applicant must have held the Skilled — Independent Regional (Provisional) (Class UX) visa for at least 2 years.

insert

the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

[5] Paragraph 1114A (3) (ba)

omit

the applicant has held the Skilled — Independent Regional (Provisional) (Class UX) visa for at least 2 years.

insert

the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[10] After sub-subparagraph 1128BA (3) (I) (iii) (C)

insert

(CA) an aunt or uncle, an adoptive aunt or uncle,
or a step-aunt or step-uncle;

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[12] Paragraph 1128C (3) (d)

omit

the applicant must have held the Skilled — Independent Regional (Provisional) (Class UX) visa for at least 2 years.

insert

the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

[13] Sub-subparagraph 1128CA (3) (I) (i) (A)

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

[14] Sub-subparagraph 1128CA (3) (I) (ii) (A)

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

[15] Sub-subparagraph 1128CA (3) (I) (ii) (B)

after

another Australian educational institution,

insert

as a result of a course of study,

[16] Sub-subparagraph 1128CA (3) (I) (ii) (C)

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[23] Paragraph 1218A (3) (c)

after

(5)

insert

, (5A), (5B)

[24] Paragraph 1218A (3) (e)

omit

subclause (5),

insert

subitem (5),

[25] Subitem 1218A (4)

substitute

- (4) If the applicant is the holder of, or is a member of the family unit of the holder of, a Skilled — Independent Regional (Provisional) (Class UX) visa:
- (a) 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 has

never held another Skilled — Independent Regional (Provisional) (Class UX) visa; and

- (b) application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that 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.

[26] Subitem 1218A (5)

omit

If the applicant is in Australia and seeks

insert

If the applicant does not meet the requirements of subitem 1218A (4), and is in Australia, and seeks

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[31] After subitem 1218A (5)

insert

(5A) If the applicant is the holder of a Subclass 417 (Working Holiday) visa:

- (a) the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old; and
- (b) the applicant seeking to satisfy the primary criteria has nominated a skilled occupation in his or her application; and
- (c) the application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and

-
- (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (iii) 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; and
 - (iv) the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
 - (v) the applicant must have been in Australia as the holder of a Working Holiday (Temporary) (Class TZ) visa for a period of at least 6 months immediately before the day when the application is made.
- (5B) If the applicant is the holder of a Subclass 442 (Occupational Trainee) visa:
- (a) the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old; and
 - (b) the applicant seeking to satisfy the primary criteria has nominated a skilled occupation in his or her application; and
 - (c) the application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and

- (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
- (iii) 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; and
- (iv) the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
- (v) 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.

[32] Subitem 1218A (6)

omit

subclause (4) or (5):

insert

subitem (4), (5), (5A) or (5B):

[33] After subitem 1218A (7)

insert

(8) In this item:

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

Note 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. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[44] Paragraph 134.222B (3) (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[54] Paragraph 136.223B (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[64] Paragraph 137.221B (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[66] After paragraph 138.211 (c)

insert

(ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[71] After clause 138.221

insert

138.221A 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:

- (a) has nominated a skilled occupation that is in the Sydney and Selected Areas Skilled Shortage List specified in that Gazette Notice; and
- (b) has been assessed for that occupation.

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[76] Paragraph 138.225B (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[78] After paragraph 139.211 (c)

insert

(ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[87] Paragraph 139.225B (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[89] Before clause 495.211

insert

495.210 For an applicant:

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

(b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clauses 495.213 and 495.214, paragraph 495.215 (c) and clause 495.219A only must be satisfied.

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

omit

in English.

insert

in English; or

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

insert

(c) the applicant is the holder of:

- (i) a Working Holiday (Temporary) (Class TZ) visa;
or
- (ii) a Subclass 442 (Occupational Trainee) visa.

[96] Clauses 495.214 to 495.219A

substitute

495.214 If the applicant met the requirements of subitem 1218A (4) of Schedule 1 — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

495.215 For an applicant who met the requirements of subitem 1218A (5) of Schedule 1:

- (a) 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; and
- (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1 — the Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;

-
- (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
- (c) 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; and
 - (d) 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; and
 - (e) if a declaration was required to be made for paragraph 1218A (5) (h), (k) or (l) of Schedule 1 — the Minister is satisfied that the applicant meets the requirements of the paragraph for which the declaration was made.
- 495.216 For an applicant who met the requirements of subitem 1218A (5A) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
 - (b) 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; and

- (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has held a Working Holiday (Temporary) (Class TZ) visa for a period of at least 6 months immediately before the day when the application is made.
- 495.217 For an applicant who met the requirements of subitem 1218A (5B) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
 - (b) 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; and
 - (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.
- 495.218 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.
- 495.219 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.

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

[97] Before clause 495.221

insert

495.220 For an applicant:

- (a) who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clauses 495.224, 495.225, 495.226, 495.227, 495.229, 495.230, 495.233 and 495.234 only must be satisfied.

[98] Clause 495.311

substitute

495.311 The applicant:

- (a) is 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
- (b) is a member of the family unit of a holder of a Skilled — Independent Regional (Provisional) (Class UX) visa.

[99] Clauses 495.313 to 495.315

substitute

495.313 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.

- 495.314 If a declaration was required to be made for subitem 1218A (5) of Schedule 1 in relation to the applicant:
- (a) 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 any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
 - (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 in relation to the applicant — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (c) 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.
- 495.315 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:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;

-
- (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
- (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.316 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:
- (a) the applicant undergone a medical examination for the purpose of the application, carried out by any of the following:
- (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
- (b) 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.

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

substitute

- (a) meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1; or
- (b) is a member of the family unit of a person who meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1, and made a combined application with that person;

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[107] After paragraph 862.211 (c)

insert

(ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

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

insert

course of study has the meaning given by subregulation 2.26A (7A).

[113] After paragraph 863.211 (c)

insert

(ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[118] Paragraph 880.222A (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

[119] Paragraph 881.224A (a)

substitute

(a) held:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa;

authorising him or her to work during that period; and

Part 4 **Amendments of Schedule 6A**

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

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

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

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

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

after

another Australian educational institution,

insert

as a result of a course of study,

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

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[124] Item 6A61

omit

as a result of at least 2 years full-time study

insert

as a result of a course of study of at least 2 years

[125] Item 6A61A

omit each mention of

as a result of at least 1 year of full-time study,

insert

as a result of a course of study of at least 1 year,

[126] Item 6A63, paragraph (a)

omit

as a result of at least 2 years full-time study

insert

as a result of a course of study of at least 2 years

[127] Item 6A64, paragraph (a)

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

[128] Item 6A64, paragraph (b)

after

another Australian educational institution,

insert

as a result of a course of study,

[129] Item 6A64, paragraph (c)

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of at least 2 years

[130] Item 6A1001, paragraph (a)

omit

as a result of at least 2 years of full-time study

insert

as a result of a course of study of at least 2 years

[131] Item 6A1001, paragraph (c)

omit

the 2 years of study;

insert

the course of study;

[132] Item 6A1002, paragraph (a)

omit

as a result of less than 2 years of full-time study

insert

as a result of a course of study of less than 2 years

[133] Item 6A1002, paragraph (c)

after

another Australian educational institution,

insert

as a result of a course of study,

[134] Item 6A1002, paragraph (d)

omit

as a result of a total of at least 2 years of full-time study

insert

as a result of 1 or more courses of study undertaken over a total of
at least 2 years

Schedule 4 Amendments relating to occupational trainee visas

(regulation 3)

[1] **Paragraph 1.40 (4) (b)**

after

Part

insert

442,

[2] **Division 442.1, including note**

substitute

442.1 Interpretation

442.111 In this Part:

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.

Note The academic requirements for the award of an academic qualification do not include the formal conferral of the award. Therefore, a person can ***complete*** a principal course, for this Part, before the award is formally conferred.

principal course has the meaning given in regulation 1.40.

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

omit

[4] Schedule 2, subparagraph 442.211 (b) (ii)*substitute*

- (ii) a Subclass 456 (Business (Short Stay)) visa; or
- (iii) a visa of one of the following subclasses:
 - (A) Subclass 570 (Independent ELICOS Sector);
 - (B) Subclass 572 (Vocational Education and Training Sector);
 - (C) Subclass 573 (Higher Education Sector);
 - (D) Subclass 574 (Postgraduate Research Sector);
 - (E) Subclass 575 (Non-Award Sector); or

[5] Schedule 2, after subclause 442.222 (2)*insert*

(3) The nomination mentioned in subclause (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.

[6] Schedule 2, subparagraph 442.223 (a) (ii)*omit*

after leaving Australia

[7] Schedule 2, clause 442.225*substitute*

442.225 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
- (b) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

[8] Schedule 2, clause 442.229*substitute*

- 442.229 If the application is made in the migration zone, and the applicant was, at the time of making the application, the holder of a visa mentioned in subparagraph 442.211 (b) (iii), or an applicant mentioned in paragraph 442.211 (e) whose last substantive visa was of a kind specified in subparagraph 442.211 (b) (iii), the applicant satisfies the Minister that:
- (a) the applicant:
 - (i) has completed the principal course, at the diploma level or higher, in Australia in relation to which that visa was granted; and
 - (ii) seeks to undertake occupational training closely related to the principal course; and
 - (iii) would complete the occupational training within 12 months; or
 - (b) the applicant:
 - (i) has completed the principal course in Australia in relation to which that visa was granted; and
 - (ii) 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:
 - (A) the applicant's usual country of residence; or
 - (B) Australia.

[9] Schedule 2, after clause 442.232*insert*

- 442.233 (1) Either:
- (a) the applicant has turned 18; or
 - (b) the applicant has not turned 18, and the Minister is satisfied that exceptional circumstances exist for the grant of the visa.
- (2) If the applicant has not turned 18, public interest criteria 4012, 4017 and 4018 are satisfied in relation to the applicant.

[10] Schedule 2, paragraph 442.323 (b)

omit

4010.

insert

4010; and

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

insert

- (c) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

[12] Schedule 2, clause 442.611

omit

condition 8102.

insert

conditions 8102 and 8501.

[13] Schedule 2, clause 442.612

omit

condition 8101.

insert

conditions 8104 and 8501.

Schedule 5 Amendments relating to sponsored family visitor visas

(regulation 3)

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

substitute

- (ii) subject to subregulation (4), if the visa has ceased to be in effect:
 - (A) the previous applicant did not comply with a condition of the visa; and
 - (B) a period of 5 years has not passed since the grant of the visa.

[2] After subregulation 1.20L (3)

insert

- (4) Despite subparagraph (1) (c) (ii), the Minister may approve the sponsorship by the sponsor of the applicant if:
 - (a) the previous applicant was the holder of:
 - (i) a Subclass 679 (Sponsored Family Visitor (Short Stay)) visa; or
 - (ii) a Subclass 679 (Sponsored Family Visitor) visa; and
 - (b) the Minister is satisfied that:
 - (i) the previous applicant did not comply with condition 8531; and
 - (ii) the previous applicant exceeded the period of stay permitted by the visa due to circumstances:
 - (A) beyond the previous applicant's control; and
 - (B) that occurred after the previous applicant entered Australia as the holder of a visa mentioned in paragraph (a).

Note Condition 8531 provides that the holder of a visa is not permitted to remain in Australia after the end of the period of stay permitted by that visa.

Schedule 6 Amendments relating to Working Holiday Maker visas

(regulation 3)

Part 1 Amendments of Schedule 1

[1] Subitem 1225 (3)

substitute

- (3) Application by a person made using form 1150 must be made:
- (a) if the applicant has previously entered Australia as the holder of a working holiday visa — by posting the application (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in a Gazette Notice for this paragraph; or
 - (b) if the applicant has not previously entered Australia as the holder of a working holiday visa the application is made:
 - (i) if the applicant is a member of a class of persons specified by the Minister in a Gazette Notice for this paragraph — in any foreign country; or
 - (ii) if the applicant is a member of a class of persons specified by the Minister in a Gazette Notice for this paragraph — in the foreign country specified in the Gazette Notice for that class of persons.

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

- (3A) If the applicant has not previously entered Australia as the holder of a working holiday visa, the applicant:
- (a) is outside Australia; and
 - (b) holds a working holiday eligible passport.
- (3B) If the applicant has previously entered Australia as the holder of a working holiday visa:
- (a) the applicant must not be in immigration clearance; and
 - (b) the application must not be made in immigration clearance; and

- (c) the application must be 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; and
- (d) the applicant has not previously entered Australia as the holder of more than one working holiday visa; and
- (e) the applicant holds a working holiday eligible passport; and
- (f) if the applicant is in Australia, the applicant must:
 - (i) hold a substantive visa; or
 - (ii) have held a substantive visa at any time in the period of 28 days immediately before making the application.

[2] After subitem 1225 (4)

insert

- (5) In this item:

regional Australia means a place specified by the Minister in a Gazette Notice for this definition.

seasonal work means work of a kind specified by the Minister in a Gazette Notice for this definition.

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

working holiday visa means a visa or entry permit of any of the following classes or kinds:

- (a) a visa that:
 - (i) was issued under the Migration (1989) Regulations; and
 - (ii) contained an endorsement describing the visa as a working holiday visa (code T18) or a working holiday visa (code number 417);
- (b) a class 417 (working holiday) visa and entry permit within the meaning of the Migration (1993) Regulations;
- (c) a Working Holiday (Temporary) (Class TZ) visa;
- (d) a visa that was granted:

- (i) before 19 December 1989; and
- (ii) in accordance with the law in force at the time; and
- (iii) for the same purpose as a visa or permit mentioned in paragraph (a), (b) or (c).

Note **Internet application** is defined in regulation 1.03.

[3] Subitem 1301 (1)

omit

or 1208.

insert

, 1150, 1150E (Internet) or 1208.

[4] Subitem 1303 (1)

omit

or 1096.

insert

, 1096, 1150 or 1150E (Internet).

Part 2 Amendments of Schedule 2

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

insert

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.

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.

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

omit

under paragraph 417.211 (3) (a) or (b).

insert

under subparagraph 1225 (3) (b) (i) or (ii) of Schedule 1.

[7] Subclause 417.211 (1)

substitute

(1) The applicant satisfies the criteria in subclauses (2), (4) and (5).

[8] Subclause 417.211 (3)

omit

[9] Subclause 417.211 (5)

substitute

(5) If the applicant has previously entered Australia as the holder of a working holiday visa, the Minister is 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.

[10] Subclause 417.221 (1)

substitute

(1) The applicant satisfies the criteria in subclauses (2) to (7).

[11] Paragraph 417.221 (2) (a)

substitute

- (a) continues to satisfy the criteria in paragraphs 417.211 (2) (a) and (c) and subclauses 417.211 (4) and (5); and

[12] After clause 417.221

insert

- 417.222 If the applicant has previously entered Australia as the holder of a working holiday visa:
- (a) the applicant has complied substantially with the conditions that applied to any visa held by the applicant; and
- (b) the applicant has not previously entered Australia as the holder of more than 1 working holiday visa.

[13] Clause 417.411

substitute

- 417.411 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.
- 417.412 If the applicant has previously entered Australia as the holder of a working holiday visa:
- (a) if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant; or
- (b) if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

[14] Clause 417.511

substitute

- 417.511 (1) If the applicant is outside Australia at the time of application — temporary visa permitting the holder:
- (a) to travel to and enter Australia within 12 months after the date of grant of the visa; and
 - (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.
- (2) If:
- (a) the applicant is in Australia at the time of application; and
 - (b) the applicant holds a working holiday visa at the time of application;

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 visa mentioned in paragraph (b).

- (3) If:
- (a) the applicant is in Australia at the time of application; and
 - (b) the applicant has previously entered Australia as the holder of a working holiday visa; and
 - (c) the applicant does not hold a working holiday visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

Schedule 7 **Amendments relating to
Subclass 471 (Trade Skills
Training) visa**
(regulation 3)

Part 1 **General amendments**

[1] **Regulation 1.03, after definition of *approved special student sponsor***

insert

approved trade skills training sponsor means an organisation or individual approved under regulation 1.20UL.

[2] **Part 1, after Division 1.4D**

insert

Division 1.4E **Sponsorship: trade skills training**

Subdivision 1.4E.1 **Introductory**

1.20UI **Application of Division 3A of Part 2 of the Act**

For section 140A of the Act, Division 3A of Part 2 of the Act applies to a Subclass 471 (Trade Skills Training) visa.

1.20UJ **Definitions for Division 1.4E**

apprentice means a person who:

- (a) is undertaking, or seeking to undertake, an apprenticeship; and
- (b) satisfies, or seeks to satisfy, the primary criteria for the 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 this definition commences.

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 a sole trader).

trade qualification means a qualification, under the Australian Qualifications Framework, of at least the 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

1.20UK Process for making application to become an approved trade skills training sponsor

- (1) For subsection 140F (1) of the Act, any of the following may apply to the Minister for approval as an approved trade skills training sponsor:
 - (a) an employer;
 - (b) a national, State, Territory or local organisation that the Minister considers is representative of industry or of a regional area of Australia.

Note Subdivision C of Division 3A of Part 2 sets out rules dealing with the sponsorship obligations and rights of unincorporated associations. In particular, section 140ZD imposes on members of the management committee of an unincorporated association, in a member's personal capacity, the sponsorship obligations.

- (2) An application must be made in accordance with approved form 1262.
- (3) An application must be accompanied by a fee of \$1 050.

-
- (4) An application must be made by:
- (a) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this paragraph; or
 - (b) having the application delivered by a courier service to the address specified in a Gazette Notice for this paragraph; or
 - (c) having the application sent by facsimile to the address specified in a Gazette Notice for this paragraph.
- (5) An application must state the number of persons that the applicant seeks to sponsor as apprentices.

1.20UL Approving an application to become an approved trade skills training sponsor

For section 140E of the Act, the criteria for approval of an applicant as an approved trade skills training sponsor are that the Minister is satisfied about each of the following matters:

- (a) that the applicant is lawfully and actively operating in Australia;
- (b) if the applicant has previously been required to comply with the immigration laws of Australia — that the applicant has a satisfactory record of compliance;
- (c) that nothing adverse is known to Immigration about the applicant;
- (d) that the applicant has the capacity to provide, or to arrange apprenticeships for, the number of persons the applicant seeks to sponsor as apprentices (see subregulation 1.20UK (5));
- (e) if the applicant will also be the employer of one or more apprentices — that the applicant has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents;
- (f) that the applicant has given the undertakings mentioned in regulation 1.20UO;
- (g) that the applicant is capable of complying with the undertakings mentioned in regulation 1.20UO;

- (h) that the applicant intends to comply with the undertakings mentioned in regulation 1.20UO.

Note Under section 140E of the Act, the Minister must approve an applicant as an approved trade skills training sponsor if the prescribed criteria are met.

1.20UM Notice of decision concerning application

- (1) As soon as practicable after deciding an application under regulation 1.20UK, the Minister must give the applicant:
- (a) a copy of the written approval or refusal of the application; and
 - (b) if the application is refused, a statement of the reasons for the refusal.
- (2) The approval must state:
- (a) the date on which the approval is granted; and
 - (b) the number of persons that the sponsor is approved to sponsor as apprentices.

1.20UN Terms of approval as approved trade skills training sponsor

For subsection 140G (2) of the Act, an approval as an approved trade skills training sponsor is on the following terms:

- (a) the sponsor may, under the approval, sponsor as apprentices a number of persons up to the number specified in the notice of approval as the number that may be sponsored by the sponsor as apprentices; and
- (b) the approval ceases to have effect on the earliest of:
 - (i) the day when the last of those persons is granted a Subclass 471 (Trade Skills Training visa); and
 - (ii) the end of 24 months, commencing on the day the sponsor is approved; and
 - (iii) the day the approval is cancelled as mentioned in paragraph 140L (a) or (b) of the Act.

1.20UO Sponsorship undertakings

For subsection 140H (1) of the Act, the undertakings that an applicant for approval as an approved trade skills training sponsor must make are as follows:

- (a) to ensure that any person (*a visa holder*) granted a Subclass 471 (Trade Skills Training) visa on the basis of sponsorship by the applicant complies with the conditions of the visa;
- (b) to ensure that a person sponsored by the sponsor to be an apprentice is a genuine applicant and genuinely intends to complete an apprenticeship in Australia;
- (c) not to employ a person who would be in breach of the immigration laws of Australia as a result of being so employed;
- (d) to give Immigration accurate information, as soon as practicable, about:
 - (i) any material change in the sponsor's circumstances; or
 - (ii) any matter that may affect the sponsor's ability to carry out the undertakings mentioned in this regulation; or
 - (iii) any material change in the circumstances of a visa holder, including changes to the visa holder's accommodation arrangements; or
 - (iv) any matter that may affect a visa holder's ability to comply with the conditions to which the visa is subject;
- (e) to notify Immigration of any change in a visa holder's location;
- (f) to cooperate with Immigration's monitoring of:
 - (i) the sponsor; and
 - (ii) an employer of an apprentice sponsored by the sponsor; and
 - (iii) the workplace of an apprentice sponsored by the sponsor; and
 - (iv) a visa holder;

- (g) to ensure that a visa holder maintains health insurance cover in Australia that the Minister considers adequate;
- (h) to ensure that a visa holder is accommodated in Australia in accommodation arrangements that the Minister considers to be consistent with a reasonable standard of living in Australia;
- (i) to ensure that an apprentice sponsored by the sponsor is employed in accordance with all relevant Commonwealth, State and Territory legislation dealing with the employment and working conditions of the apprentice;
- (j) to ensure that the individual or organisation operating the workplace in which an apprentice sponsored by the sponsor is undertaking his or her apprenticeship:
 - (i) has a satisfactory record of compliance with the immigration laws of Australia; and
 - (ii) is lawfully and actively operating in Australia; and
 - (iii) has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents; and
 - (iv) has the capacity to provide the apprenticeship;
- (k) to ensure that:
 - (i) each person sponsored by the sponsor to be an apprentice signs a New Apprenticeship/training contract; and
 - (ii) the contract is lodged for registration in accordance with the relevant State or Territory legislation:
 - (A) if the Subclass 471 visa is granted while the applicant is in Australia — within 3 months of the grant of the Subclass 471 visa; or
 - (B) if the person arrives in Australia as the holder of a Subclass 471 visa — within 3 months of the person's arrival in Australia; and
 - (iii) a New Apprenticeship/training contract approved under the relevant State or Territory legislation remains in force while the person continues to undertake the apprenticeship;

- (l) to notify Immigration within 10 days if an apprentice sponsored by the sponsor ceases to be in the employment, or ceases to undertake the apprenticeship, in respect of which the visa is granted.

Note The undertakings do not have effect in relation to a person until a visa is granted to the person (see subsection 140H (3) of the Act).

1.20UP Consequences if approved trade skills training sponsor or visa holder changes status

For subsection 140Q (1) of the Act, an undertaking under regulation 1.20UO in relation to the holder of a Subclass 471 (Trade Skills Training) visa remains enforceable against the sponsor until the time that the holder ceases to hold the visa.

Note Undertakings made by an approved trade skills training sponsor in relation to a person do not have effect until a Subclass 471 (Trade Skills Training) visa is granted to the person (see subsection 140H (3) of the Act).

Subdivision 1.4E.3 Cancelling or barring approval as approved trade skills training sponsor

1.20UQ Cancelling or barring approval as a sponsor

- (1) For paragraphs 140J (2) (a) and 140K (1) (a) of the Act, the circumstances in which the Minister may take one or more of the actions mentioned in section 140L of the Act in relation to cancelling or barring approval as an approved trade skills training sponsor are:
- (a) the Minister is no longer satisfied as to the matters mentioned in regulation 1.20UL; or
 - (b) the Minister is satisfied that an approved trade skills training sponsor has breached an undertaking mentioned in regulation 1.20UO; or
 - (c) the Minister is no longer satisfied that the sponsor is able to comply with an undertaking mentioned in regulation 1.20UO; or
 - (d) the sponsor has provided false or misleading information to Immigration:
 - (i) in the application for approval as an approved trade skills training sponsor; or

- (ii) during processing of the application; or
 - (iii) in relation to the sponsor's sponsorship of a person to be an apprentice; or
 - (iv) in the performance of any of the undertakings mentioned in regulation 1.20UO.
- (2) For paragraphs 140J (2) (b) and 140K (1) (b) of the Act, the criteria to be taken into account by the Minister in determining what action to take under section 140L are:
- (a) the severity of the breach or other conduct; and
 - (b) the past conduct of the sponsor; and
 - (c) the impact (if any) that the taking of the action may have on the Australian community; and
 - (d) whether barring the approved trade skills training sponsor in a way mentioned in section 140L of the Act would be an inadequate means of dealing with the matter, having regard to considerations including:
 - (i) the seriousness of the inability or failure to comply; and
 - (ii) the past conduct of the approved trade skills training sponsor.

1.20UR Waiving a bar

- (1) For subsection 140O (1) of the Act, a Subclass 471 (Trade Skills Training) visa is prescribed.
- (2) For subsection 140O (2) of the Act, a circumstance in which the Minister may waive a bar placed on an approved trade skills training 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.
- (3) For subsection 140O (3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive a bar are:
 - (a) whether there would be significant social, economic or political benefits to Australia if the bar were waived; and

- (b) whether there has been a substantial change in the sponsor's, or former sponsor's, circumstances significantly minimising the likelihood of further breaches or unacceptable conduct in other circumstances; and
- (c) whether 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; and
- (d) if the Minister has previously refused to waive the bar — whether the Minister is satisfied that the circumstances relevant to the criteria mentioned in paragraphs (a), (b) and (c) have changed substantially since the refusal to waive the bar.

1.20US Giving notice about a bar, waiving a bar or cancellation

- (1) If the Minister takes action mentioned in section 140L or 140O of the Act in relation to an approved trade skills training sponsor the Minister must give the sponsor or former sponsor notice of the action in accordance with section 494B of the Act.

Note If the Minister gives a document to a person by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified for the method in section 494C of the Act.

- (2) The notice must specify:
 - (a) which of the circumstances mentioned in subregulation 1.20UQ (1) apply; and
 - (b) the specific action to be taken; and
 - (c) if the action is to bar the approved trade skills training sponsor — the duration of the bar.

Subdivision 1.4E.4 General

1.20UT Disclosure of personal information

For section 140V of the Act:

- (a) personal information that may be disclosed to an approved trade skills training sponsor, or a former approved trade skills training sponsor, about the holder or former holder

(the *person*) of a Subclass 471 (Trade Skills Training) visa who was granted the visa on the basis of sponsorship by the sponsor is:

- (i) details of any breaches of visa conditions by the person; and
 - (ii) if the person no longer holds a valid Subclass 471 (Trade Skills Training) visa and remains in Australia as an unlawful non-citizen — that information; and
 - (iii) details of any non-compliance by the person with the immigration laws of Australia; and
 - (iv) details of any material change in the person's circumstances, including details of a change in the person's accommodation arrangements; and
 - (v) details of any matter that affected the person's ability to comply with the conditions to which the person's visa was subject; and
 - (vi) information about the person's salary or other employment conditions; and
- (b) the circumstances in which the Minister may disclose the personal information are that the disclosure is necessary:
- (i) to allow the sponsor or former sponsor to respond to a claim about conduct that may lead to action under section 140J or 140K of the Act against the sponsor or former sponsor; or
 - (ii) to allow the sponsor or former sponsor to meet a liability or perform an undertaking relating to the sponsorship of the person; or
 - (iii) in connection with a proceeding for review of a decision mentioned in paragraph 4.02 (4) (ha) of these Regulations; and
- (c) the circumstances in which the sponsor or former sponsor may use or disclose the information are the circumstances set out in paragraph (b).

[3] After paragraph 2.07AO (3) (m)

insert

- (ma) a Subclass 471 (Trade Skills Training) visa; and

[4] After paragraph 2.43 (1) (la)

insert

- (lb) in the case of the holder of a Subclass 471 (Trade Skills Training) visa who was granted the visa on the basis of sponsorship by an approved trade skills training sponsor — that the sponsor:
- (i) has failed to comply with an undertaking under regulation 1.20UO; or
 - (ii) does not continue to satisfy the requirements for approval as an approved trade skills training sponsor; or
 - (iii) has provided incorrect or misleading information to Immigration;

[5] After subregulation 4.02 (1A)

insert

- (1B) For paragraph 338 (2) (d) of the Act, a Subclass 471 (Trade Skills Training) visa is prescribed.

[6] After paragraph 4.02 (4) (g)

insert

- (ga) a decision under subsection 140E (1) of the Act to refuse an application for approval as an approved trade skills training sponsor;

[7] After paragraph 4.02 (4) (h)

insert

- (ha) a decision under subsection 140J (2) or 140K (2) of the Act to take the action mentioned in paragraph 140L (a), (b), (c), (d), (e) or (f) of the Act in relation to:
- (i) an approved trade skills training sponsor; or
 - (ii) a former approved trade skills training sponsor;

[8] Sub-subparagraph 4.02 (4) (l) (ii) (E)

omit

visa.

insert

visa;

[9] After paragraph 4.02 (4) (l)

insert

(m) a decision to refuse to grant a Subclass 471 (Trade Skills Training) visa to a non-citizen if:

(i) the non-citizen is outside Australia at the time of application; and

(ii) the non-citizen was sponsored, as required by a criterion for the grant of the visa, by an approved trade skills training sponsor.

[10] After paragraph 4.02 (5) (f)

insert

(fa) in the case of a decision to which paragraph (4) (ga) applies — the applicant for approval as an approved trade skills training sponsor;

[11] After paragraph 4.02 (5) (g)

insert

(ga) in the case of a decision to which paragraph (4) (ha) applies — the approved trade skills training sponsor or former approved trade skills training sponsor;

[12] Paragraph 4.02 (5) (k)

omit

nominator.

insert

nominator;

[13] After paragraph 4.02 (5) (k)

insert

- (l) in the case of a decision to which paragraph (4) (m) relates — the sponsor.

Part 2 Amendments of Schedule 1

[14] Subitem 1220B (1)

substitute

- (1) Form:
- (a) if the applicant is seeking to satisfy the criteria for the grant of a Subclass 470 (Professional Development) visa: form 1227
- (b) if the applicant is seeking to satisfy the criteria for the grant of a Subclass 471 (Trade Training Skill) visa: form 1261.

[15] Subitem 1220B (2)

substitute

- (2) Visa application charge for an applicant seeking to satisfy the criteria for the grant of a Subclass 470 (Professional Development) visa:
- (a) First instalment (payable at the time application is made): \$170
- (b) Second instalment (payable before grant of visa): Nil.
- (2A) Visa application charge for an applicant seeking to satisfy the criteria for the grant of a Subclass 471 (Trade Skills Training) visa:
- (a) First instalment (payable at the time application is made):
- (i) In the case of an applicant who:
- (A) holds a Subclass 471 (Trade Skills Training) visa on the basis of satisfying the primary criteria for the grant of that visa; and

- (B) seeks a further Subclass 471 (Trade Skills Training) visa on the basis of satisfying the primary criteria; and
 - (C) seeks the further visa to complete the apprenticeship in respect of which the visa referred to in sub-subparagraph (A) was granted, but with a different approved trade skills training sponsor; and
 - (D) does not seek a further Subclass 471 (Trade Skills Training) visa in respect of a visa period that exceeds the visa period of the original Subclass 471 (Trade Skills Training) visa: \$140.
- (ii) In any other case: \$420.
- (b) Second instalment (payable before grant of visa):
- (i) In the case of an applicant who:
 - (A) holds or held a Subclass 471 (Trade Skills Training) visa on the basis of satisfying the primary criteria for the grant of that visa; and
 - (B) seeks a further Subclass 471 (Trade Skills Training) visa on the basis of satisfying the primary criteria; and
 - (C) seeks the further visa to complete the apprenticeship in respect of which the visa referred to in sub-subparagraph (A) was granted: Nil.
 - (ii) In the case of an applicant who claims to be the spouse or dependent child of the holder of a Subclass 471 (Trade Skills Training) visa granted on the basis of satisfying the primary criteria: Nil.
 - (iii) In any other case: \$3 300.

[16] After paragraph 1220B (3) (c)

insert

- (d) Application by a person seeking to satisfy the criteria for the grant of a Subclass 471 (Trade Skills Training) visa:
- (i) must include:
 - (A) evidence of sponsorship by an approved trade skills training sponsor who is not the subject of a bar mentioned in paragraph 140L (c), (d), (e) or (f) of the Act; or
 - (B) evidence of a proposed sponsorship by an individual or organisation that has applied for approval as a trade skills training sponsor and that is not the subject of a bar mentioned in paragraph 140L (c), (d), (e) or (f) of the Act; and
- Note* Under paragraph 140L (c), (d), (e) or (f) of the Act, an approved trade skills training sponsor may be barred for a specified period from sponsoring more people under the terms of 1 or more specified, or all, existing approvals for temporary visas.
- (ii) must be lodged by the approved trade skills training sponsor or the applicant for approval as an approved trade skills training sponsor, as the case may be.
- (e) Application by a person seeking to satisfy the criteria for the grant of a Subclass 471 (Trade Skills Training) visa must be made by:
- (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
 - (iii) having the application sent by facsimile to the address specified in a Gazette Notice for this subparagraph.
- (f) Application by a person seeking to satisfy the primary criteria for the grant of a Subclass 471 (Trade Skills Training) visa must include evidence that the person has been offered an apprenticeship.

- (g) Applicant seeking to satisfy the criteria for the grant of a Subclass 471 (Trade Skills Training) visa may be inside or outside Australia, but not in immigration clearance.
- (h) Application for a Subclass 471 (Trade Skills Training) visa by a person claiming to be the spouse or dependent child of another person who is applying for a Subclass 471 (Trade Skills Training) visa on the basis of satisfying the primary criteria may be made at the same time and place as, and combined with, the application of that other person.

[17] Subitem 1220B (4)

substitute

- (4) Subclasses:
 - 470 (Professional Development)
 - 471 (Trade Skills Training)

Part 3 Amendments of Schedule 2

[18] Sub-subparagraph 457.211 (a) (ii) (C)

omit

457; or

insert

457;

[19] After sub-subparagraph 457.211 (a) (ii) (C)

insert

(D) Subclass 471 (Trade Skills Training) visa; or

[20] **After Part 470**

insert

Subclass 471 Trade Skills Training

471.1 Interpretation

471.111 In this Part:

apprentice, *apprenticeship* and *organisation* have the same meanings as in regulation 1.20UJ.

Note approved trade skills training sponsor is defined in regulation 1.03.

471.2 Primary criteria

471.21 Criteria to be satisfied at the time of application

471.211 If the applicant is in Australia:

- (a) the applicant holds a substantive visa, other than a Subclass 679 (Sponsored Family Visitor) visa or a Special Purpose Visa; or
- (b) if the applicant does not hold a substantive visa at the time of the application:
 - (i) the last substantive visa held by the applicant was not a Subclass 679 visa or a Special Purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

471.212 The applicant is aged between 18 and 35 years.

471.22 Criteria to be satisfied at time of decision

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

471.222 The applicant has made satisfactory arrangements to undertake an apprenticeship.

- 471.223 The Minister is satisfied that the applicant is a genuine applicant for a Subclass 471 (Trade Skills Training) visa to undertake an apprenticeship, having regard to:
- (a) the applicant's previous compliance with the immigration laws of Australia; and
 - (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (c) any other relevant matter.
- 471.224 The applicant has an appropriate level of education, qualifications and skills to undertake an apprenticeship in Australia.
- 471.225 The applicant has health insurance cover in Australia that the Minister considers adequate.
- 471.226 The applicant has the financial capacity to meet:
- (a) the costs of, and associated with, the apprenticeship, including all tuition costs; and
 - (b) the costs of living, travel and school for the applicant and any spouse or dependent child accompanying the applicant.
- 471.227 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014.
- 471.228 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 471.229 The applicant has vocational English.
- 471.229A The applicant is sponsored by an approved trade skills training sponsor who is not the subject of a bar mentioned in paragraph 140L (c), (d) (e) or (f) of the Act.
- 471.229B The applicant's sponsor has made the undertakings mentioned in regulation 1.20UO in relation to the applicant.
- 471.229C Approval of the application would not result in the number of persons sponsored by the sponsor exceeding the number of persons specified in the sponsor's approval as an approved trade skills training sponsor as the number that may be sponsored by the sponsor as apprentices.

-
- 471.229D The applicant's proposed employment will comply with all relevant Commonwealth, State and Territory legislation dealing with the employment and working conditions of the apprentice.
- 471.229E Nothing adverse is known to Immigration about the applicant's proposed employer.
- 471.229F The applicant's proposed apprenticeship will be:
- (a) in a trade that the Minister considers to be an acceptable trade; and
 - (b) in a trade in which the Minister considers there is a shortage of skilled workers; and
 - (c) in a location that the Minister considers to be a regional area.
- 471.229G The applicant's sponsor has provided evidence to Immigration 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.
- 471.229H The Minister is satisfied, having considered the certification mentioned in clause 471.229G in respect of the applicant's proposed apprenticeship position, that the position is a position that has been unable to be filled by local recruitment.
- 471.229I The Minister is satisfied that the applicant's proposed apprenticeship has not been created only for the purposes of securing the applicant's entry to, or a continuing stay in, Australia.
- 471.229J The Minister is satisfied that the individual or organisation operating the workplace in which the applicant's proposed apprenticeship will be undertaken:
- (a) has a satisfactory record of compliance with the immigration laws of Australia; and
 - (b) is lawfully and actively operating in Australia; and
 - (c) has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents; and
 - (d) has the capacity to provide the apprenticeship.

- 471.229K (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirement of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 471.229L The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

471.3 Secondary criteria

Note These criteria must be satisfied by an applicant who is the spouse or dependent child of a person who satisfies the primary criteria.

471.31 Criteria to be satisfied at time of application

- 471.311 The applicant is the spouse or dependent child of a person who seeks to satisfy or who satisfies the primary criteria for a Subclass 471 (Trade Skills Training) visa.
- 471.312 If the applicant is in Australia:
- (a) the applicant holds a substantive visa other than a Subclass 679 (Sponsored Family Visitor) visa or a Special Purpose visa; or
 - (b) if the applicant does not hold a substantive visa at the time of the application:
 - (i) the last substantive visa held by the applicant was not a Subclass 679 visa or a Special Purpose visa; and

- (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

471.32 Criteria to be satisfied at time of decision

- 471.321 The applicant continues to be the spouse or dependent child of a person who, having satisfied the primary criteria, is the holder of a Subclass 471 (Trade Skills Training) visa.
- 471.322 The applicant is sponsored by the same approved trade skills training sponsor who is sponsoring the person and the sponsor is not the subject of a bar mentioned in paragraph 140L (c), (d), (e) or (f) of the Act and the sponsor has made the undertakings mentioned in regulation 1.20UO in relation to the applicant.
- 471.323 If:
- (a) the applicant is outside Australia, and
 - (b) the application is made separately from that of the person referred to in clause 471.321;
- that person is, or is expected soon to be, in Australia.
- 471.324 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 471.325 The applicant has health insurance cover in Australia that the Minister considers adequate.
- 471.326 If the applicant was not included in the application of the person referred to in clause 471.321, that person has the financial capacity to support himself or herself as well as the applicant during the applicant's intended stay in Australia.
- 471.327 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014.
- 471.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 471.329 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 471.329A (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirement of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 471.329B The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

471.4 Circumstances applicable to grant

- 471.411 The applicant may be in Australia (but not in immigration clearance) or outside Australia when the visa is granted.

471.5 When visa is in effect

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

471.6 Conditions

471.611 If the applicant satisfies the primary criteria, conditions 8303, 8501, 8514, 8516, 8544, 8545 and 8546 must be imposed.

471.612 If the applicant satisfies the secondary criteria:

- (a) conditions 8303, 8501, 8514 and 8516 must be imposed;
and
- (b) conditions 8502, 8515 and 8518 may be imposed.

471.7 Way of giving evidence

471.711 No evidence need be given.

471.712 If evidence is given, to be given by way of visa label affixed to a valid passport.

[21] Subclause 857.212 (1)

omit

(6) or (7).

insert

(6), (7) or (8).

[22] After subclause 857.212 (7)

insert

(8) 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

[23] After clause 8543

insert

8544 The holder must enter into a contract or agreement of apprenticeship in the form of a New Apprenticeship/training

contract which must be lodged in accordance with the relevant State or Territory legislation:

- (a) if the visa is granted while the applicant is in Australia — within 3 months of the grant of the visa; or
- (b) if the person arrives in Australia as the holder of a visa — within 3 months of the person's arrival in Australia.

8545 The holder must undertake the apprenticeship in the employment in respect of which the visa was granted, and must not, without the written permission of Immigration:

- (a) cease to undertake the apprenticeship in the employment in respect of which the visa was granted; or
- (b) engage in an activity inconsistent with undertaking the apprenticeship in respect of which the visa was granted.

8546 The holder of a Subclass 471 (Trade Skills Training) Visa who is undertaking an apprenticeship (within the meaning of regulation 1.20UJ) must maintain contact with the approved trade skills training sponsor in respect of which the visa was granted, and co-operate with, and to the best of the holder's ability facilitate, compliance with the undertakings by the sponsor.

Schedule 8 Amendments relating to professional development visas

(regulation 3)

Part 1 General amendments

[1] Regulation 1.20M, before definition of *employed*

insert

agreement rules, in relation to a professional development agreement, means the rules set out in subregulation 1.20NA (4).

Australian organisation means an organisation that is lawfully established in Australia.

[2] Regulation 1.20M, after definition of *employed*

insert

government agency means an agency of the Commonwealth or of a State or Territory.

[3] Regulation 1.20M, definition of *organisation*

substitute

organisation means a body corporate or an unincorporated body (other than an individual or a sole trader).

[4] Regulation 1.20M, definition of *overseas agreement*

omit

**[5] Regulation 1.20M, definition of *overseas employer*,
sub-subparagraph (a) (ii) (B)**

omit

the costs of which are met wholly by the organisation

**[6] Regulation 1.20M, definition of *overseas employer*,
sub-subparagraph (b) (ii) (B)**

omit

the costs of which are wholly met by the agency

**[7] Regulation 1.20M, after definition of *overseas
participant***

insert

participant costs for an overseas participant in a professional development program conducted by an approved professional development sponsor means the costs of:

- (a) the overseas participant's travel and entry to Australia; and
- (b) the overseas participant's tuition for the professional development program; and
- (c) the overseas participant's accommodation in Australia; and
- (d) the overseas participant's living expenses in Australia; and
- (e) the overseas participant's health insurance in Australia; and
- (f) the overseas participant's return travel from Australia.

professional development agreement means an agreement that complies with the agreement rules.

professional development program means a program that complies with the requirements in paragraph 1.20NA (2) (a).

[8] Subregulation 1.20N (1)

substitute

- (1) For subsection 140F (1) of the Act, an application to the Minister for approval as an approved professional development sponsor may be made by:
- (a) an Australian organisation; or
 - (b) a government agency;
- that has entered into a professional development agreement that is in force at the time of the making of the application.

[9] Subregulation 1.20N (3)

substitute

- (3) If the application is not made by a Commonwealth agency, the application must be accompanied by a fee of \$1 050.

[10] Subregulation 1.20NA (1)

omit

of an organisation

[11] Paragraph 1.20NA (2) (a)

omit

professional development

[12] Sub-subparagraph 1.20NA (2) (a) (iii) (A)

omit

12

insert

18

[13] Paragraph 1.20NA (2) (c)

substitute

- (c) the applicant has entered into a professional development agreement that is in force at the time of the Minister's consideration of the application; and
- (ca) each of the parties to the agreement has the capacity to meet their financial commitments; and
- (cb) all of the participant costs of an overseas participant in a professional development program that an applicant is offering to conduct will be met; and
- (cc) an overseas participant will not be required to pay the participant's costs of tuition for the professional development program; and

[14] Paragraph 1.20NA (2) (d)

omit

applicant

insert

applicant and each of the other parties with which the applicant has a current professional development agreement

[15] Paragraph 1.20NA (2) (g)

omit

overseas agreement

insert

professional development agreement

[16] Paragraph 1.20NA (2) (i)

omit

[17] Subregulation 1.20NA (3)

omit

by an organisation for approval as an approved professional development sponsor,

insert

under subregulation 1.20N (1),

[18] After subregulation 1.20NA (3)

insert

- (4) The ***agreement rules***, in relation to a professional development agreement, are the following rules:
- (a) the parties to the agreement must be:
 - (i) the applicant; and
 - (ii) the overseas employer of a person who would be an overseas participant;
 - (b) the applicant must be:
 - (i) an Australian organisation that has been actively operating in Australia for a continuous period of at least 1 year before the making of the agreement; or
 - (ii) an Australian organisation that, while not meeting the requirements of subparagraph (i), has been approved by the Minister for the purposes of this subparagraph; or
 - (iii) a government agency;
 - (c) there may be other parties to the agreement but, if there are, those other parties must be either Australian organisations or government agencies;
 - (d) the agreement must specify who is responsible for the participant costs of persons who would be overseas participants;
 - (e) the agreement must include:
 - (i) a description of the professional development program and what is intended to be provided by the sponsor; and

- (ii) a description of the roles of each of the parties under the agreement; and
 - (iii) the details of the duration of the agreement; and
 - (iv) arrangements for mediation of disputes and other conflict resolution arrangements; and
 - (v) any arrangements made by the sponsor to subcontract any part of the provision of the professional development program; and
 - (vi) a description of the arrangements for insurance relating to the sponsor; and
 - (vii) 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
 - (viii) 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;
- (f) if proposed overseas participants will be expected to pay for some of their participation costs (other than tuition costs), the agreement must contain:
- (i) a statement setting out that the proposed overseas participants will be expected to meet the costs set out; and
 - (ii) 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;
- (g) the agreement is signed and dated by representatives of each party who are authorised to sign the agreement.

[19] Paragraph 1.20O (1) (b)

omit

overseas

insert

professional development

[20] Paragraph 1.20O (1) (c), note

substitute

Note If an approved professional development sponsor wishes:

- (a) to prepare a new professional development program; or
- (b) to make a new agreement; or
- (c) to offer an existing professional development program to a new overseas employer;

the sponsor must apply under regulation 1.20N for a new approval as an approved professional development sponsor in relation to the new arrangement.

[21] After subregulation 1.20O (1)

insert

- (1A) For subsection 140G (2) of the Act, an approval as an approved professional development sponsor has as terms the matters set out in subregulations (1B), (1C) and (1D).
- (1B) An authorised officer may require the sponsor to give additional security for compliance with:
 - (a) the provisions of the Act and these Regulations in relation to the applicant's undertakings as an approved professional development sponsor; or
 - (b) a condition imposed under the Act or these Regulations in relation to the applicant's undertakings as an approved professional development sponsor.
- (1C) The additional security may be required if the security given under paragraph 1.20NA (1) (b) 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.
- (1D) If an authorised officer has required the sponsor to give additional security under subregulation (1B), the sponsor must give the security within:
 - (a) 28 days; or
 - (b) such longer period as allowed by the Minister; after the time the requirement has been made.

[22] Subregulation 1.20O (2)

omit

approval of an organisation

insert

an approval

[23] Subparagraph 1.20O (2) (b) (i)

omit

overseas

insert

professional development

[24] Paragraph 1.20P (1) (a)

substitute

(a) 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; and

[25] Paragraph 1.20P (1) (m)

omit

subregulation (2)).

insert

subregulation (2)); and

[26] After paragraph 1.20P (1) (m)

insert

(n) to pay to the Commonwealth any security required under subregulation 1.20O (1B) within the time provided for in subregulation 1.20O(1D).

[27] Regulation 1.20PB, table, after item 2

insert

2A Paragraph The time when the security is given
1.20P (1) (n)

[28] Subregulation 1.20R (2)

substitute

- (2) 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.

[29] Paragraph 1.20R (3) (b)

omit

organisation's

insert

sponsor's, or former sponsor's,

[30] Paragraph 1.20R (3) (c)

omit

organisation's

insert

sponsor's, or former sponsor's,

[31] Regulation 1.20S

substitute

1.20S Giving notice about a bar, waiving a bar or cancellation

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.

Note If 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.

Part 2 Amendments of Schedule 2

[32] Clause 470.111

substitute

470.111 In this Part:

employed, professional development agreement and *overseas employer* have the same meaning as in regulation 1.20M.

Note *Approved professional development sponsor* is defined in regulation 1.03.

[33] After clause 470.111

insert

470.112 In this Part:

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.

[34] Clause 470.227

substitute

470.227 The Minister is 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.

[35] After clause 470.233

insert

470.234 The Minister is satisfied that there is no evidence to suggest that the applicant is unable to meet the costs (if any) specified in the applicable agreement as costs that the applicant will meet.

Schedule 9 Amendments relating to student career relevance

(regulation 3)

[1] **Clause 5A206**

substitute

5A206 Other requirements

The applicant must give evidence:

- (a) that the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) that the applicant has the educational qualifications required by his or her education provider.

[2] **Subclause 5A406 (1)**

substitute

(1) The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
 - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.

[3] Clause 5A409

substitute

5A409 Other requirements

The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent); and
- (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
 - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.

[4] Clause 5A706

substitute

5A706 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent).

[5] Clause 5A709

substitute

5A709 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent).

Schedule 10 Amendments relating to student visas

(regulation 3)

[1] Paragraph 5A204 (c)

substitute

- (c) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and

-
- (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[2] Paragraph 5A404 (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or

- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[3] Paragraph 5A407 (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or

-
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[4] Paragraph 5A504 (1) (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

- (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[5] Paragraph 5A506 (c)

substitute

- (c) he or she:
- (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
- (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or
- (f) he or she has a certificate of enrolment in a course that:
- (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or
- (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
- (i) is specified by the Minister in a Gazette Notice for this subparagraph; and
 - (ii) was conducted outside Australia.

[6] Paragraph 5A507 (1) (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

-
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[7] Paragraph 5A509 (c)

substitute

- (c) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or
- (f) he or she has a certificate of enrolment in a course that:
 - (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or

- (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
 - (i) is specified by the Minister in a Gazette Notice for this subparagraph; and
 - (ii) was conducted outside Australia.

[8] Paragraph 5A604 (2) (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and

-
- (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[9] Paragraph 5A607 (2) (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or

- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[10] Paragraph 5A704 (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or

-
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

[11] Paragraph 5A707 (d)

substitute

- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

- (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in a Gazette Notice for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

Schedule 11 Technical amendments (regulation 3)

Part 1 Amendments of Regulations

[1] Division 1.2, first note

omit

An index of all the terms defined either in section 5 or in regulation 1.03 is set out in the list of Defined Terms at the front of the Regulations.

[2] Subparagraph 1.20IA (a) (ii)

omit

a valid Subclass 457 (Business (Long Stay)) visa,

insert

a Subclass 457 (Business (Long Stay)) visa that is in effect,

[3] Subparagraph 1.20T (a) (ii)

omit

a valid Subclass 470 (Professional Development) visa

insert

a Subclass 470 (Professional Development) visa that is in effect

[4] Paragraph 2.20 (12) (e)

omit

finally determined; and

insert

finally determined.

[5] Subparagraph 3.03 (3) (f) (ii)

omit

passenger card.

insert

passenger card; and

[6] Subparagraph 3.03 (3) (g) (ii)

omit

passenger card; and

insert

passenger card.

Part 2 Amendments of Schedule 1

[7] Subparagraph 1128BA (3) (j) (ii)

omit

meet the criteria

insert

satisfy the criteria

[8] Subparagraph 1128BA (3) (j) (iii)

omit

meet the criteria

insert

satisfy the criteria

[9] Paragraph 1218A (3) (c)

omit

subclause (4)

insert

subitem (4)

Part 3 **Amendments of Schedule 2**

[10] Subdivision 051.21, heading

substitute

051.21 Criteria to be satisfied at time of application

[11] Subdivision 051.22, heading

substitute

051.22 Criteria to be satisfied at time of decision

[12] Subdivision 070.21, heading

substitute

070.21 Criteria to be satisfied at time of application

[13] Subdivision 070.22, heading

substitute

070.22 Criteria to be satisfied at time of decision

[14] Clause 309.111, definition of *intended spouse*

omit

subparagraph 309.211 (3) (a) (i), (ii), (iii) or (iv).

insert

subparagraph 309.211 (3) (a) (i), (ii) or (iii).

[15] Clause 309.223

omit

paragraph 309.211 (2) (a), (b), (c), or (d)

insert

paragraph 309.211 (2) (a), (b) or (c)

[16] Before Division 410.2

insert

410.1 Interpretation

Note No interpretation provisions specific to this Part.

[17] Sub-subparagraph 572.227 (c) (iii) (C)

omit

visa

[18] Subparagraph 572.312 (2) (d) (iii)

omit

visa

[19] Subparagraph 573.211 (2) (d) (iii)

omit

visa

[20] Sub-subparagraph 573.227 (c) (iii) (C)

omit

visa

- [21] Subparagraph 573.312 (2) (d) (iii)**
omit
visa
- [22] Subparagraph 574.211 (2) (d) (iii)**
omit
visa
- [23] Sub-subparagraph 574.227 (c) (iii) (C)**
omit
visa
- [24] Subparagraph 574.312 (2) (d) (iii)**
omit
visa
- [25] Subparagraph 580.211 (2) (d) (iii)**
omit
visa
- [26] Sub-subparagraph 580.227 (c) (iii) (C)**
omit
visa
- [27] Subparagraph 580.311 (2) (d) (iii)**
omit
visa

[28] Subparagraph 773.213 (1) (g) (i)

substitute

- (i) has entered Australia without a visa that is in effect; and

Part 4 Amendments of Schedule 5

[29] Paragraph 5010 (3) (b)

omit

AusAID visa

insert

AusAID student visa

[30] Sub-subparagraph 5010 (4) (a) (i) (B)

omit

AusAID visa

insert

AusAID student visa

Schedule 12 Amendments relating to Subclass 151 and 832 visas

(regulation 3)

Part 1 Amendments of Schedule 1

[1] Item 1115

omit

[2] Item 1118

substitute

1118A. Special Eligibility (Class CB)

- (1) Form: 47SV.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is in Australia: \$1 935
 - (ii) In the case of an applicant who is outside Australia: \$1 305
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$2 690
 - (ii) In any other case: Nil.
- (3) Other:
 - (a) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in a Gazette Notice for this subparagraph; or

- (ii) having the application delivered by a courier service to the address specified by the Minister in a Gazette Notice for this subparagraph.
 - (b) 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.
- (4) Subclasses:
151 (Former Resident)

Part 2 Amendments of Schedule 2

[3] Part 151

substitute

Subclass 151 Former Resident

Note This Subclass applies in relation to an application for a visa made on or after 1 November 2005.

Subclass 151 visas that relate to the former Special Eligibility (Migrant) (Class AR) visa will not be available to applicants who apply on or after 1 November 2005.

151.1 Interpretation

In this Part:

Australian defence service means:

- (a) 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
- (b) service before 19 January 1981:
 - (i) in the Permanent Forces; or

- (ii) by 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.

defence service applicant means an applicant who satisfies the Minister that he or she:

- (a) has completed at least 3 months continuous Australian defence service; or
- (b) 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.

long residence applicant means an applicant who satisfies the Minister that he or she:

- (a) spent the greater part of his or her life before the age of 18 in the migration zone as an Australian permanent resident; and
- (b) did not at any time acquire Australian citizenship; and
- (c) has maintained business, cultural or personal ties with Australia; and
- (d) has not turned 45 at the time of application.

the Permanent Forces has the same meaning as it has in the *Defence Act 1903*.

151.2 Primary criteria

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

151.21 Criteria to be satisfied at time of application

151.211 If the applicant is in Australia, either:

- (a) the applicant is the holder of a substantive visa, other than a Subclass 771 (Transit) visa; or

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

151.212 The applicant is a long residence applicant or a defence service applicant.

151.22 Criteria to be satisfied at time of decision

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

151.222 If the applicant is a long residence applicant who is outside Australia, the applicant also satisfies public interest criterion 4005.

151.223 If the applicant is:

- (a) a long residence applicant who is in Australia; or
- (b) a defence service applicant;

the applicant also satisfies public interest criterion 4007.

151.224 If the applicant is under 18, the applicant also satisfies public interest criteria 4017 and 4018.

151.225 If the applicant is a long residence applicant who is outside Australia:

- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4005; and
- (b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

-
- 151.226 If the applicant is a long residence applicant who is in Australia:
- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and
 - (b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 151.227 If the applicant is a defence service applicant:
- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; or
 - (b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 151.228 If a person (an *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is also an applicant for a Special Eligibility (Class CB) visa; and
 - (c) has not turned 18;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 151.229 If the applicant:
- (a) is in Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.

- 151.229A If the applicant:
- (a) is outside Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001, 5002 and 5010.
- 151.229B If the Minister 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.
- 151.229C The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

151.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

151.31 Criteria to be satisfied at time of application

- 151.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Special Eligibility (Class CB) visa; and
 - (b) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 151.21;
- and the Minister has not decided to grant or refuse to grant a visa to the person.

151.32 Criteria to be satisfied at time of decision

- 151.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa.

-
- 151.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010.
- 151.323 If the applicant is a member of the family unit of a person who:
- (a) was a long residence applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; and
 - (b) was outside Australia at the time of the person's application;
- the applicant also satisfies public interest criterion 4005.
- 151.324 If the applicant is a member of the family unit of a person who:
- (a) was a long residence applicant in Australia who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; or
 - (b) was a defence service applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa;
- the applicant also satisfies public interest criterion 4007.
- 151.325 If the applicant has not turned 18, the applicant also satisfies public interest criteria 4017 and 4018.
- 151.326 If the applicant:
- (a) is in Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 151.327 If the applicant:
- (a) is outside Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criterion 5001, 5002 and 5010.
- 151.328 If the Minister has requested an assurance of support in relation to the person who satisfied the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has

been accepted by the Secretary of the Department of Family and Community Services; or

- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

151.329 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

151.4 Circumstances applicable to grant

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

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

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

151.5 When visa is in effect

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

151.6 Conditions

151.611 For an applicant who was outside Australia at the time of application:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8502 may be imposed.

Note No conditions have been prescribed for other applicants.

151.7 Way of giving evidence

151.711 No evidence need be given.

151.712 If evidence is given, to be given by way of visa label affixed to a valid passport.

[4] Part 832

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.