



**Commonwealth of Australia**

*Migration Act 1958*

**SUBSTANTIVE VISA CLASSES**

(PARAGRAPHS 82(2AA)(a) and (b))

I, *CHRIS EVANS*, Minister for Immigration and Citizenship, acting under subsection 82(2AA) of the *Migration Act 1958* (“the Act”):

1. REVOKE Instrument number IMMI 07/048, signed on 6 August 2007, specifying substantive visa classes for the purposes of paragraphs 82(2AA)(a) and (b) of the Act;
2. SPECIFY for the purposes of paragraph 82(2AA)(a) of the Act any substantive temporary visa class; AND
3. SPECIFY for the purposes of paragraph 82(2AA)(b) of the Act any substantive temporary visa class EXCEPT FOR a Special Purpose visa granted to a person on the grounds that they are:
  - (i) a member of the crew on a non-military ship; or
  - (ii) a spouse, de facto partner or dependent child of a member of the crew.

For the purposes of this Instrument:

“*substantive temporary visa*” means a visa that is both a substantive visa and a temporary visa as defined by the Act.

This Instrument, IMMI 09/058, commences on 1 July 2009.

Dated 8 June 2009

CHRIS EVANS

Minister for Immigration and Citizenship

[NOTE 1: Subsection 82(2AA) states:

(a) a maritime crew visa held by a non-citizen does not cease to be in effect if a substantive visa for the non-citizen that is of a class specified by the Minister, by legislative instrument, for the purposes of this subsection comes into effect; and

(b) a substantive visa held by a non-citizen that is of a class specified by the Minister, by legislative instrument, for the purposes of this subsection does not cease to be in effect if a maritime crew visa for the non-citizen comes into effect.

NOTE 2: The Act, at section 5, defines a “*substantive visa*” as a visa other than:

- (a) a bridging visa; or
- (b) a criminal justice visa; or
- (c) an enforcement visa.

NOTE 3: The Act, at subsection 30(2), defines a “*temporary visa*” as a visa to remain in Australia (whether also a visa to travel to and enter Australia):

- (a) during a specified period; or
- (b) until a specified event happens; or
- (c) while the holder has a specified status.

NOTE 4: The *Migration Regulations 1994*, at 1.03, provides that a “*member of the crew*”, in relation to a non-military ship,

- (a) means any of the following persons:
  - (i) a person who is involved in the usual day to day routine maintenance or business of the ship while it is at sea;
  - (ii) a supernumerary member of the crew, including:
    - (A) a person who performs specialist repair or maintenance work on the ship while it is at sea (for example, an electrical engineer); and
    - (B) an entertainer who works on the ship while it is at sea; and
    - (C) a chef who works on the ship while it is at sea; and
    - (D) a hairdresser who works on the ship while it is at sea;
  - (iii) for a ship described in paragraph (b) of the definition of *non-military ship* – a person who is engaged in scientific research conducted on or from the ship; whether the person works as an employee, a contractor or in another capacity; but
- (b) does not include a person who:
  - (i) is engaged only to perform work on a ship while it is in port or dry dock; and
  - (ii) does not travel with the ship after completing the work in port or dry dock.

NOTE 5: “*De facto partner*” and “*spouse*” are defined in the Act.]