



Migration Legislation Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 117

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958* and the *Immigration (Education) Act 1971*.

Dated 3 June 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

CHRIS EVANS
Minister for Immigration and Citizenship

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1 Name of Regulations

These Regulations are the *Migration Legislation Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence on 1 July 2010.

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 July 2010.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by 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 July 2010; or
 - (b) made on or after 1 July 2010.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to a matter for which an obligation to pay a fee or charge is incurred on or after 1 July 2010.

**6 Amendment of *Immigration (Education) Regulations 1992* —
Schedule 4**

- (1) Schedule 4 amends the *Immigration (Education) Regulations 1992*.
- (2) The amendment made by Schedule 4 applies in relation to an enrolment in a prescribed English course on or after 1 July 2010.

Schedule 1 Amendments relating to Subclass 422 visas

(regulation 3)

[1] Schedule 1, heading

substitute

Schedule 1 Classes of visa

(regulations 2.01 and 2.07)

[2] Schedule 1, after paragraph 1214AA (3) (c)

insert

- (d) Application by a person seeking to satisfy the primary criteria for the grant of the visa must be made before 1 July 2010.

[3] Schedule 2, Division 422.2, heading, note

substitute

Note The primary criteria must be satisfied by at least 1 member of a family unit. The person seeking to satisfy the primary criteria must make an application for the visa before 1 July 2010. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

[4] Schedule 2, Division 422.3, heading, note

omit

satisfies the primary criteria.

insert

satisfies the primary criteria on the basis of an application made before 1 July 2010.

[5] Schedule 2, clause 422.311

substitute

422.311 The applicant is a member of a family unit of a person who applied for a Subclass 422 visa before 1 July 2010.

Schedule 2 Amendments relating to personal identifiers

(subregulation 4 (1))

[1] Regulation 1.03, after definition of *permanent humanitarian visa*

insert

personal identifier has the meaning given by section 5A of the Act.

[2] Paragraphs 2.04 (1) (a) and (b)

after

subregulation (2)

insert

or (4)

[3] Subregulations 2.04 (2), (3) and (4)

substitute

- (2) For paragraph 40 (3) (a) and subsection 40 (5) of the Act, a circumstance is that a person is:
- (a) an applicant for a Protection (Class XA) visa; or
 - (b) an applicant for a Temporary Safe Haven (Class UJ) visa who is in Australia at the time of application.
- (3) For subsection 40 (5) of the Act, the following types of personal identifier are prescribed for the circumstance mentioned in subregulation (2):
- (a) a photograph or other image of the applicant's face and shoulders;
 - (b) the applicant's signature.

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- (4) For paragraph 40 (3) (a) and subsection 40 (5) of the Act, a circumstance is that a person:
- (a) is an applicant for a visa; and
 - (b) is not in Australia at the time of application.
- (5) For subsection 40 (5) of the Act, the following types of personal identifier are prescribed for the circumstance mentioned in subregulation (4):
- (a) fingerprints of the applicant (including those taken using paper and ink or digital livenesscanning technologies);
 - (b) a photograph or other image of the applicant's face and shoulders.

[4] Regulation 2.08AC, including the note

substitute

2.08AC Application for visa — personal identifiers

- (1) For paragraph 46 (2AC) (a) of the Act, fingerprints of a person (including those taken using paper and ink or digital livenesscanning technologies) are prescribed.
- (2) For paragraph 46 (2AC) (b) of the Act, a personal identifier must not be required if:
- (a) the personal identifier is:
 - (i) fingerprints of the applicant (including those taken using paper and ink or digital livenesscanning technologies); or
 - (ii) a photograph or other image of the applicant's face and shoulders; and
 - (b) the circumstance is that:
 - (i) the application is for a bridging visa or a Witness Protection (Trafficking) (Permanent) (Class DH) visa; and
 - (ii) the applicant is outside Australia at the time of application.

- (3) For subsection 46 (2C) of the Act:
- (a) a circumstance is that the application is for a visa other than a bridging visa or a Witness Protection (Trafficking) (Permanent) (Class DH) visa; and
 - (b) a personal identifier is:
 - (i) a photograph or other image of the applicant's face and shoulders; or
 - (ii) the applicant's signature.
- (4) For subsection 46 (2C) of the Act:
- (a) a circumstance is that:
 - (i) the application:
 - (A) is not an application for a bridging visa that is made by an applicant who is outside Australia at the time of the application; and
 - (B) is not an application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa that is made by an applicant who is outside Australia at the time of application; and
 - (ii) the personal identifier mentioned in paragraph (b) is to be provided at a place specified by the Minister in an instrument in writing for this subparagraph; and
 - (b) a personal identifier is:
 - (i) fingerprints of a person (including those taken using paper and ink or digital liveness scanning technologies); or
 - (ii) a photograph or other image of the applicant's face and shoulders.

Note Section 46 of the Act sets out the conditions for a valid visa application. Subsection 46 (2C) provides that, in prescribed circumstances, prescribed types of personal identifiers may be provided by an applicant otherwise than by way of an identification test carried out by an authorised officer (in accordance with subsection 46 (2B)), if the applicant complies with any requirements that are prescribed relating to the provision of the personal identifier.

Schedule 3 Amendments relating to fees and charges — *Migration Regulations 1994*

(subregulation 5 (1))

[1] Amendments

<i>Provision</i>	<i>omit</i>	<i>insert</i>
General regulations		
Subregulation 2.61 (2), table, item 1, column 4	\$345	\$350
Subregulation 2.61 (2), table, item 2, column 4	\$345	\$350
Subregulation 2.61 (2), table, item 4, column 4	\$1 370	\$1 395
Subregulation 2.61 (2), table, item 5, column 4	\$345	\$350
Subregulation 2.66 (4)	\$345	\$350
Paragraph 2.66A (2) (a)	\$345	\$350
Paragraph 2.73A (4) (a)	\$2 800	\$2 850
Paragraph 2.73A (4) (b)	\$140	\$145
Paragraph 2.73B (4) (a)	\$2 800	\$2 850
Paragraph 2.73B (4) (b)	\$140	\$145
Paragraph 2.73C (4) (a)	\$2 800	\$2 850
Paragraph 2.73C (4) (b)	\$140	\$145
Subregulation 5.37 (1)	\$445	\$455
Paragraph 5.38 (2) (a)	\$3 300	\$3 350
Paragraph 5.38 (2) (b)	\$330	\$335
Schedule 1		
Paragraph 1104AA (2) (a)	\$4 905	\$4 995
Sub-subparagraph 1104AA (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1104AA (2) (b) (ii) (C)	\$3 510	\$3 575
Paragraph 1104A (2) (a)	\$4 905	\$4 995
Sub-subparagraph 1104A (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1104A (2) (b) (ii) (C)	\$3 510	\$3 575

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subparagraph 1104B (2) (a) (i)	\$230	\$235
Subparagraph 1104B (2) (a) (ii)	\$1 410	\$1 435
Sub-subparagraph 1104B (2) (b) (i) (E)	\$3 510	\$3 575
Subparagraph 1108 (2) (a) (ii)	\$1 040	\$1 060
Subparagraph 1108 (2) (a) (iii)	\$1 705	\$1 735
Subparagraph 1108A (2) (a) (ii)	\$1 040	\$1 060
Subparagraph 1108A (2) (a) (v)	\$2 525	\$2 575
Subparagraph 1111 (2) (a) (i)	\$195	\$200
Paragraph 1112 (2) (a)	\$1 705	\$1 735
Subparagraph 1112 (2) (b) (i)	\$3 510	\$3 575
Paragraph 1113 (2) (a)	\$2 525	\$2 575
Subparagraph 1113 (2) (b) (i)	\$3 510	\$3 575
Subparagraph 1114 (2) (a) (iii)	\$1 705	\$1 735
Sub-subparagraph 1114 (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1114 (2) (b) (ii) (C)	\$3 510	\$3 575
Subparagraph 1114 (2) (b) (iv)	\$1 660	\$1 690
Sub-subparagraph 1114A (2) (a) (ii) (C)	\$230	\$235
Subparagraph 1114A (2) (a) (v)	\$2 525	\$2 575
Sub-subparagraph 1114A (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1114A (2) (b) (ii) (C)	\$3 510	\$3 575
Sub-sub-subparagraph 1114A (2) (b) (iv) (D) (III)	\$3 510	\$3 575
Subparagraph 1118A (2) (a) (i)	\$2 525	\$2 575
Subparagraph 1118A (2) (a) (ii)	\$1 705	\$1 735
Subparagraph 1118A (2) (b) (i)	\$3 510	\$3 575
Paragraph 1120 (2) (a)	\$1,060	\$1 080
Subparagraph 1120 (2) (b) (i)	\$2,275	\$2 315
Subparagraph 1121 (2) (a) (iii)	\$1 705	\$1 735
Sub-subparagraph 1121 (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1121 (2) (b) (ii) (C)	\$3 510	\$3 575

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subparagraph 1121 (2) (b) (v)	\$1 660	\$1 690
Subparagraph 1121A (2) (a) (iv)	\$2 525	\$2 575
Sub-subparagraph 1121A (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1121A (2) (b) (ii) (C)	\$3 510	\$3 575
Subparagraph 1123A (2) (a) (i)	\$1 040	\$1 060
Subparagraph 1123A (2) (a) (ii)	\$1 705	\$1 735
Subparagraph 1123A (2) (b) (ii)	\$1 480	\$1 510
Subparagraph 1123B (2) (a) (i)	\$1 040	\$1 060
Subparagraph 1123B (2) (a) (ii)	\$2 525	\$2 575
Subparagraph 1123B (2) (b) (ii)	\$1 480	\$1 510
Paragraph 1124 (2) (a)	\$1 705	\$1 735
Paragraph 1124 (2) (b)	\$1 480	\$1 510
Paragraph 1124A (2) (a)	\$2 525	\$2 575
Paragraph 1124A (2) (b)	\$1 480	\$1 510
Subparagraph 1124B (2) (a) (ii)	\$295	\$300
Sub-subparagraph 1124B (2) (a) (iii) (D)	\$1 040	\$1 060
Sub-subparagraph 1124B (2) (a) (iv) (C)	\$1 040	\$1 060
Sub-subparagraph 1124B (2) (a) (v) (C)	\$825	\$840
Sub-subparagraph 1124B (2) (a) (vi) (D)	\$1 040	\$1 060
Subparagraph 1124B (2) (a) (vii)	\$2 525	\$2 575
Subparagraph 1128AA (2) (b) (i)	\$2 465	\$2 505
Subparagraph 1128AA (2) (b) (ii)	\$3 510	\$3 575
Paragraph 1128A (2) (a)	\$1 090	\$1 110
Subparagraph 1128A (2) (b) (i)	\$2 340	\$2 380
Subparagraph 1128B (2) (a) (ii)	\$2 525	\$2 575
Subparagraph 1128B (2) (b) (i)	\$3 510	\$3 575
Paragraph 1128BA (2) (a)	\$2 525	\$2 575
Subparagraph 1128BA (2) (b) (i)	\$3 510	\$3 575
Subparagraph 1128C (2) (a) (ii)	\$230	\$235

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subparagraph 1128C (2) (a) (iii)	\$2 525	\$2 575
Subparagraph 1128C (2) (b) (i)	\$3 510	\$3 575
Paragraph 1128CA (2) (a)	\$2 525	\$2 575
Subparagraph 1128CA (2) (b) (i)	\$3 510	\$3 575
Paragraph 1128D (2) (a)	\$2 525	\$2 575
Subparagraph 1128D (2) (b) (i)	\$3 510	\$3 575
Subparagraph 1129 (2) (a) (ii)	\$1 705	\$1 735
Subparagraph 1130 (2) (a) (i)	\$230	\$235
Sub-subparagraph 1130 (2) (a) (ia) (B)	\$230	\$235
Subparagraph 1130 (2) (a) (ib)	\$230	\$235
Subparagraph 1130 (2) (a) (ic)	\$1 705	\$1 735
Subparagraph 1130 (2) (a) (iii)	\$1 705	\$1 735
Subparagraph 1130 (2) (b) (i)	\$13 730	\$15 185
Sub-sub-subparagraph 1130 (2) (b) (ia) (A) (III)	\$13 730	\$15 185
Subparagraph 1130 (2) (b) (iia)	\$13 730	\$15 185
Subparagraph 1130 (2) (b) (iib)	\$12 430	\$13 745
Sub-subparagraph 1130 (2) (b) (iii) (B)	\$1 485	\$1 640
Subparagraph 1130 (2) (b) (iv)	\$34 330	\$37 965
Subparagraph 1130A (2) (a) (ii)	\$230	\$235
Sub-subparagraph 1130A (2) (a) (iia) (B)	\$230	\$235
Subparagraph 1130A (2) (a) (iib)	\$230	\$235
Subparagraph 1130A (2) (a) (iic)	\$2 525	\$2 575
Subparagraph 1130A (2) (a) (iii)	\$2 525	\$2 575
Subparagraph 1130A (2) (b) (i)	\$13 730	\$15 185
Sub-sub-subparagraph 1130A (2) (b) (ia) (A) (III)	\$13 730	\$15 185
Subparagraph 1130A (2) (b) (iia)	\$13 730	\$15 185
Subparagraph 1130A (2) (b) (iib)	\$11 700	\$12 940
Sub-subparagraph 1130A (2) (b) (iii) (B)	\$1 485	\$1 640
Subparagraph 1130A (2) (b) (iv)	\$34 330	\$37 965

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Paragraph 1134 (2) (a)	\$230	\$235
Sub-subparagraph 1134 (2) (b) (i) (D)	\$3 510	\$3 575
Sub-subparagraph 1134 (2) (b) (ii) (C)	\$3 510	\$3 575
Paragraph 1135 (2) (a)	\$2 525	\$2 575
Sub-subparagraph 1135 (2) (b) (i) (B)	\$3 510	\$3 575
Sub-sub-subparagraph 1136 (2) (a) (i) (E) (II)	\$230	\$235
Subparagraph 1136 (2) (a) (ii)	\$2 525	\$2 575
Sub-subparagraph 1136 (2) (b) (i) (C)	\$3 510	\$3 575
Paragraph 1202A (2) (a)	\$3 360	\$3 420
Sub-subparagraph 1202A (2) (b) (i) (C)	\$7 040	\$7 165
Sub-subparagraph 1202A (2) (b) (ii) (C)	\$3 510	\$3 575
Subparagraph 1205 (2) (a) (iv)	\$2 600	\$2 650
Subparagraph 1205 (2) (a) (iva)	\$2 600	\$2 650
Subparagraph 1205 (2) (a) (v)	\$260	\$265
Paragraph 1207 (2) (a)	\$260	\$265
Subparagraph 1208 (2) (a) (ii)	\$260	\$265
Paragraph 1212A (2) (a)	\$230	\$235
Paragraph 1212B (2) (a)	\$230	\$235
Paragraph 1212B (2) (b)	\$10 440	\$10 625
Paragraph 1214AA (2) (a)	\$260	\$265
Subparagraph 1214A (2) (a) (ii)	\$225	\$230
Paragraph 1214BA (2) (a)	\$230	\$235
Paragraph 1215 (2) (a)	\$1 705	\$1 735
Subparagraph 1216A (2) (a) (ii)	\$2 900	\$2 955
Sub-subparagraph 1216A (2) (b) (i) (D)	\$6 415	\$6 530
Sub-subparagraph 1216A (2) (b) (ii) (D)	\$3 215	\$3 275
Sub-subparagraph 1216A (2) (b) (iii) (C)	\$3 215	\$3 275
Subparagraph 1217 (2) (a) (ii)	\$260	\$265
Sub-subparagraph 1218 (2) (a) (ii) (B)	\$250	\$255

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subparagraph 1218A (2) (a) (i)	\$230	\$235
Subparagraph 1218A (2) (a) (ii)	\$230	\$235
Subparagraph 1218A (2) (a) (iii)	\$2 525	\$2 575
Sub-subparagraph 1218A (2) (b) (i) (D)	\$3 510	\$3 575
Sub-subparagraph 1218A (2) (b) (ii) (C)	\$3 510	\$3 575
Paragraph 1220B (2) (a)	\$260	\$265
Subparagraph 1221 (2) (a) (iii)	\$1 705	\$1 735
Sub-subparagraph 1221 (2) (b) (i) (B)	\$1 485	\$1 640
Subparagraph 1221 (2) (b) (iii)	\$20 595	\$22 780
Subparagraph 1221A (2) (a) (iii)	\$2 525	\$2 575
Sub-subparagraph 1221A (2) (b) (i) (B)	\$1 485	\$1 640
Subparagraph 1221A (2) (b) (iii)	\$20 595	\$22 780
Subparagraph 1222 (2) (a) (ii)	\$70	\$75
Subparagraph 1222 (2) (a) (iv)	\$540	\$550
Subparagraph 1223A (2) (a) (iii)	\$260	\$265
Paragraph 1224A (2) (a)	\$230	\$235
Subitem 1225 (2)	\$230	\$235
Subparagraph 1226 (2) (a) (ii)	\$230	\$235
Subparagraph 1226 (2) (a) (iii)	\$2 525	\$2 575
Sub-subparagraph 1226 (2) (b) (i) (D)	\$3 510	\$3 575
Sub-subparagraph 1226 (2) (b) (ii) (C)	\$3 510	\$3 575
Subparagraph 1228 (2) (a) (i)	\$2 525	\$2 575
Subparagraph 1228 (2) (a) (ii)	\$230	\$235
Sub-subparagraph 1228 (2) (b) (i) (C)	\$3 510	\$3 575
Subparagraph 1229 (2) (a) (i)	\$230	\$235
Sub-subparagraph 1229 (2) (a) (ii) (D)	\$230	\$235
Subparagraph 1229 (2) (a) (iii)	\$2 525	\$2 575
Sub-subparagraph 1229 (2) (b) (i) (D)	\$3 510	\$3 575
Paragraph 1302 (2) (a)	\$90	\$95

Schedule 4 **Amendment relating to fees —
*Immigration (Education)
Regulations 1992***

(subregulation 6 (1))

[1] Paragraph 4 (1) (a)

omit

\$400

insert

\$410

Note

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