

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 82

Issued by the Minister for Immigration and Citizenship

Migration Act 1958

Migration Amendment Regulation 2012 (No. 2)

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

In addition, regulations may be made pursuant to the provisions of the *Migration Act 1958* in Attachment A.

The purpose of the Regulation is to amend the *Migration Regulations 1994* (the Principal Regulations) to strengthen and improve immigration policy. The Regulation supports the new skilled migrant selection model, known as 'SkillSelect', by harmonising skill requirements across skilled visa subclasses and introducing an invitation requirement for some key visas. The Regulation also progresses the Government's simplification and deregulation agenda, by repealing 19 visa subclasses and associated legislation, and introducing 7 new visas in a revised structure incorporating the concept of 'streams' within subclasses.

A Statement of Compatibility with Human Rights has been completed for the Regulation, in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Statement's assessment is that the measures in the Regulation are compatible with human rights because they do not raise any human right issues, or advance the protection of human rights. A copy of the Statement is at Attachment B.

An overview of the Regulation is set out in Attachment C.

Details of the Regulation are set out in Attachment D.

Extensive consultations were undertaken across Federal, State and Territory government agencies during the development of the new general skilled migration, employer nominated and business skills visas and associated nomination requirements. In relation to all the amendments made by Schedules 1 and 2, the Office of Best Practice Regulation advised that the amendments in this regulation are machinery-of-government or minor in nature and no Regulation Impact Statement is required.

Discussions were held with a range of key affected stakeholders from business and industry groups, unions and education providers, including the Australian Chamber of Commerce and Industry, Rural Skills Australia, the Construction, Forestry, Mining and Energy Union, Universities Australia and the Australian Council for Private Education and Training.. In January 2011, the Department of Immigration and Citizenship published a discussion paper on the employer nominated component of the skilled visa program. The paper invited

submissions on policy settings in relation to age, skill level and English language proficiency and opportunities for greater synergy between the permanent and temporary employer sponsored visas. Over 60 submissions were received. The submissions and outcomes of discussions with stakeholders were taken into account in developing the amending Regulation.

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

Schedule 1 of the Regulation commences on 1 July 2012.

Schedule 2 of the Regulation commences on 1 July 2013.

ATTACHMENT A

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

In addition, the following provisions may apply:

- Subsections 29(2) and 29(3) of the Act, which provide that the regulations may prescribe a period during which the holder of a visa may travel to, enter and remain in Australia;
- Subsection 31(1) of the Act, which provides that the regulations may prescribe classes of visas;
- Subsection 31(3) of the Act, which provides that the regulations may prescribe criteria for a visa or visas of a specified class (which, without limiting the generality of this subsection, may be a class provided for by section 32, 36, 37, 37A or 38B but not by section 33, 34, 35, 38 or 38A);
- Subsection 31(4) of the Act provides that the regulations may prescribe whether visas of a class are visas to travel and enter Australia, or to remain in Australia, or both;
- Subsection 31(5) of the Act, which provides that the regulations specify that a visa is a visa of a particular class;
- Subsection 40(1) of the Act, which provides that the regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;
- Subsection 40(2) of the Act, which provides that without limiting subsection 40(1), the circumstances may be, or may include, that, when the person is granted the visa, the person:
 - is outside Australia; or
 - is in immigration clearance; or
 - has been refused immigration clearance and has not subsequently been immigration cleared; or
 - is in the migration zone and, on last entering Australia, was immigration cleared or bypassed immigration clearance and had not subsequently been immigration cleared;
- Subsection 41(1) of the Act, which provides that the regulations may provide that visas, or visas of a specified class, are subject to specified conditions;
- Subsection 41(2) of the Act, which provides that, without limiting subsection 41(1), the regulations may provide that a visa, or visas of a specified class, are subject to:
 - a condition that, despite anything else in the Act, the holder of the visa will not, after entering Australia, be entitled to be granted a substantive visa (other than a protection visa), while he or she remains in Australia; or

- a condition imposing restrictions about the work that may be done in Australia by the holder, which, without limiting the generality of this paragraph, may be restriction on doing any work, work other than specified work or work of a specified kind.
- Subsection 41(2A) of the Act, which provides that the regulations may prescribe the circumstances in which the Minister may, by writing, waive a condition of a kind described in paragraph 41(2)(a), to which a particular visa is subject under regulations made for the purposes of that paragraph or under subsection 41(3);
- Subsection 41(3) of the Act, which provides that, in addition to any conditions specified under subsection 41(1), the regulations may permit conditions to which the Minister may specify that a visa is subject;
- Subsection 45B(1) of the Act, which provides that the regulations may prescribe the amount of visa application charge, not exceeding the visa application charge limit;
- Subsection 45B(2) of the Act, which provides that the regulations may prescribe that the visa application charge in relation to an application may be nil;
- Subsection 45C(1) of the Act, which provides that the regulations may:
 - a) provide that visa application charge may be payable in instalments; and
 - b) specify how those instalments are to be calculated; and
 - c) specify when the instalments are payable;
- Subsection 46(1) of the Act, which provides that the regulations may prescribe the criteria and requirements to be satisfied for a visa application to be valid;
- Subsection 46(3) of the Act, which provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application
- Subsection 46(4) of the Act, which provides that the regulations may prescribe, without limiting subsection 46(3):
 - the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
 - how an application for a visa of a specified class must be made; and
 - where an application for a visa of a specified class must be made; and
 - where an applicant must be when an application for a visa of a specified class is made.

- Subsection 93(2) of the Act, which provides that the regulations may prescribe a number of points and prescribe qualifications for the purposes of section 93 (Determination of applicant's score);
- Subparagraph 134(10)(a)(ii) of the Act, which provides that the regulations may prescribe a visa that has the words "Business Skills" in its title for the purposes of the definition of "business visa" in section 134 (Cancellation of business visas);
- Subsection 137Q(1) of the Act, which provides that the regulations may prescribe the period within which the holder of a regional sponsored employment visa must commence the employment referred to in the relevant employer nomination;
- Subsection 137Q(3) of the Act, which provides that a visa of a class having the words "Employer Nomination" in its title may be prescribed for the purposes of the definition of 'regional sponsored employment visa' for the purposes of section 137Q (Cancellation of regional sponsored employment visas);
- Subsection 338(9) of the Act, which provides that the regulation may prescribe a decision as an 'MRT-reviewable decision', that is, as a decision which is reviewable by the Migration Review Tribunal;
- Subparagraph 504(1)(a)(i) of the Act, which provides that the regulations may make provision for the charging and recovery of fees in respect of any matter under the Act or the regulations;
- Subparagraph 504(1)(e) of the Act, which provides that regulations may be made in relation to the giving of documents to, the lodging of documents with, or the service of documents on, the Minister, the Secretary or any other person or body, for the purposes of the Act; and
- Subsection 504(2) of the Act which provides that section 14 of the Legislative Instruments Act 2003 does not prevent, and has not prevented, regulations whose operation depends on a country or other matter being specified or certified by the Minister in an instrument in writing made under the regulations after the regulations have taken effect.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendments to *Migration Regulations 1994* to strengthen and improve immigration policy in relation to certain skilled migration visas.

This Regulation Amendment is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation Amendment

The amendments are designed to strengthen and improve immigration policy in relation to certain skilled migration visas. The amendments implement a new methodology of selecting skilled migrants known as ‘SkillSelect’, by harmonising skill requirements across skilled visa subclasses and introducing an invitation requirement for some key visas. The amendments also progress the Government’s simplification and deregulation agenda, by introducing seven new visas in a revised structure incorporating the concept of ‘streams’ within subclasses. Thirty three visa subclasses are being repealed in accordance with both Schedules 1 and 2 of the *Migration Amendment Regulation 2012 (No. 2)*.

In particular, the proposed amendments to the *Migration Regulations 1994*:

- introduce a streamlined and simplified pathway to permanent residence, via the permanent employer-sponsored visa program, for eligible Subclass 457 (Business (Long Stay)) visa holders;
- recognise and encourage business innovation by introducing a business innovation points test as part of a new Business Innovation stream in the Business Skills (Provisional) (Class EB) visa class;
- reward entrepreneurial talent and diverse business expertise by introducing a Venture Capital Entrepreneur stream in the Business Skills – Business Talent (Migrant) (Class EA) visa class;
- increase the asset thresholds which must be met by applicants for Business Skills visas;
- align key skill standards across the General Skilled Migration, Employer Nomination and Business Skills visas to improve the integrity of the skilled visa program;
- introduce a new requirement for applicants to be invited by the Minister to apply for a General Skilled Migration or Business Skills visa;
- require all skilled visa applications to be lodged electronically;
- simplify visa subclasses by eliminating distinctions between applications made in Australia and outside Australia, and by removing complex qualifying visa requirements; and
- make a number of minor and technical amendments.

Human rights implications

Rights to freedom of movement – Article 12 of the International Covenant on Civil and Political Rights

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) provides that:

- “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.”

The scope of the right to freedom of movement permits a country to impose restrictions on who may enter it, such as those with a valid visa. It also permits a country to allow entry of a non-citizen on conditions that allow the person lesser rights of freedom of movement, provided those restrictions comply with the country’s international obligations. For example, some visas impose conditions on a visa holder to reside and work in a particular region.

The purpose of the proposed new Subclass 489 (Skilled – Regional (Provisional)) visa is to encourage skilled migrants to live and work in regional Australia in any State or Territory, thereby promoting economic development in regional communities. Hence, it is a condition of this visa that the visa holder resides in regional Australia. The visa holder may choose not to reside in regional Australia, but this may result in cancellation of their Subclass 489 (Skilled – Regional (Provisional)) visa. It is reasonable to impose the requirement to live in regional Australia, in the interests of supporting economic development in regional communities. It is important to note that Subclass 489 (Skilled – Regional (Provisional)) visa holders are free to travel throughout Australia without restriction and to live in any State or Territory of Australia provided that the location is classified as regional. Further, these visa holders have chosen to apply for this visa in full knowledge that these conditions are imposed.

Hence the proposed amendments to the regulations to introduce the new Subclass 489 Skilled – Regional visa would be compatible with Article 12 of the ICCPR.

Right to work and rights in work – Articles 6(1), 7 and 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 6(1) provides “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”

Article 7 provides “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work.”

Article 8(1)(a) provides:

“The States Parties to the present Covenant undertake to ensure the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.”

The scope of the right to work and rights in work is to assure individuals their right to freely choose and accept work. It should also be protected by providing the worker with just and favourable conditions of work, particularly in relation to safe working conditions.

The purpose of the proposed new Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visas is to enable Australian employers to fill full time vacancies in their businesses with overseas skilled workers.

Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visa holders make a decision to seek employment from an Australian employer. Upon commencing work with the employer the overseas workers are subject to the protections of Australian conditions and awards and have the right to form and join trade unions.

Hence the proposed amendments to the regulations to introduce the new 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visas are compatible with Articles 6(1), 7 and 8(1)(a) of the ICESCR.

Family rights – Articles 17(1) and (2), 23(1) and (2) of the International Covenant on Civil and Political Rights

Articles 17(1) and (2) of the ICCPR provide that:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Articles 23(1) and (2) of the ICCPR provide that:

- “1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.”

The scope of the right to respect for the family and freedom from interference with the family requires countries to adopt legislative, administrative and other measures to protect families, and to refrain from arbitrary interference in families. The Australian Government’s position is that the reasonable and predictable application of migration laws does not result in a breach of Articles 17 or 23, even if it limits an individual’s ability to bring family members to Australia.

The proposed new Subclass 186 (Employer Nomination Scheme), Subclass 187 (Regional Sponsored Migration Scheme), Subclass 188 (Business Innovation and Investment

(Provisional)), Subclass 189 (Skilled – Independent), Subclass 190 (Skilled – Nominated), Subclass 489 (Skilled – Regional (Provisional)), Subclass 888 (Business Innovation and Investment (Permanent)) all enable condition 8515 to be imposed on the visa of applicants who satisfied the secondary criteria ('the secondary visa holder'). Condition 8515 provides that "the holder of the visa must not marry or enter into a de facto relationship before entering Australia."

The reasoning behind condition 8515 is that the secondary visa holder is granted a visa only because they are a member of the family unit (MoFU) of the primary visa holder. The Migration Regulations provide that a person is a MoFU relevantly when they are a dependent child of the primary visa applicant, or another dependent relative. In both cases the regulations provide that to be considered dependent an individual must not be engaged to be married and must not have a spouse or de facto partner. Upon marriage or entering a de facto relationship, the secondary visa holder is no longer dependent on the primary applicant, no longer a MoFU of the primary visa holder and hence no longer eligible for the grant of the visa, and so their visa may be subject to cancellation on that basis. Should the secondary applicant choose to marry or enter into a de facto relationship after they first enter Australia, they are free to do so, without any impact on the visa they hold.

Providing decision-makers with the discretion to place condition 8515 on a secondary applicant's visa does not infringe Australia's international obligations in relation to the family, as it does not prevent a secondary visa holder from getting married or entering into a de facto relationship while they are in Australia (and thus the subject of Australia's obligations), nor does it result in the separation of families as they are defined for the purposes of the Migration Act. Article 2(1) ICCPR provides that Articles 17 and 23 apply, relevantly, to all individuals within Australia's territory. This provision does not affect marriage or de facto relationships entered into by people in Australia, nor does it breach obligations which do not create a right to enter a country of which an individual is not a citizen. The Human Rights Committee has noted in General Comment 19 that the definitions of families differ and that States parties must provide the protection provided for in the ICCPR to families as they are recognised in each State party's legislation and practice. Australia's migration system provides facilities for families to migrate together and to join family members already in Australia, which is considerably broader than Australia's international obligations.

Hence the proposed amendments to the regulations to enable existing condition 8515 to be attached to the proposed new Subclass 186 (Employer Nomination Scheme), Subclass 187 (Regional Sponsored Migration Scheme), Subclass 188 (Business Innovation and Investment (Provisional)), Subclass 189 (Skilled – Independent), Subclass 190 (Skilled – Nominated), Subclass 489 (Skilled – Regional), Subclass 888 (Business and Investment (Permanent)) visas are consistent with Articles 23(1) and (2) of the ICCPR.

Conclusion

The Regulation Amendment is compatible with human rights because it advances the protection of human rights and to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

[The Hon. Chris Bowen MP, Minister for Immigration and Citizenship]

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendments to Migration Regulations 1994 to repeal legislation associated with visas which are closed to new applications.

This Regulation Amendment is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation Amendment

The amendments repeal regulations associated with visas that are closed to new applications. They progress the Government's simplification and deregulation agenda, by repealing thirty three visa subclasses in both Schedules 1 and 2 of the *Migration Amendment Regulation 2012 (No. 2)* and associated legislation. Current holders of the affected provisional visas will have access to the revised Subclass 887 (Skilled – Regional) visa.

Conclusion

The Regulation Amendment does not substantively engage with human rights, as it prospectively repeals inactive visa subclasses. There will be no impact on the rights of individuals as existing holders of repealed provisional visas will have access to the Subclass 887 (Skilled – Regional) visa.

[The Hon. Chris Bowen MP, Minister for Immigration and Citizenship]

ATTACHMENT C

The Regulation amends the *Migration Regulations 1994* (the Principal Regulations) to:

- support the new skilled migrant selection model, known as ‘SkillSelect’, by harmonising skill requirements across skilled visa subclasses and introducing an invitation requirement for some key visas; and
- progress the Government’s simplification and deregulation agenda, by repealing 19 visa subclasses and associated legislation, and introducing 7 new visas in a revised structure incorporating the concept of ‘streams’ within subclasses.

In particular, the Regulation amends the Principal Regulations to:

- introduce a streamlined and simplified pathway to permanent residence, via the permanent employer-sponsored visa program, for eligible Subclass 457 (Business (Long Stay)) visa holders;
- recognise and encourage business innovation by introducing a business innovation points test as part of a new Business Innovation stream in the Business Skills (Provisional) (Class EB) visa class;
- reward entrepreneurial talent and diverse business expertise by introducing a Venture Capital Entrepreneur stream in the Business Skills – Business Talent (Permanent) (Class EA) visa class;
- increase the asset thresholds which must be met by applicants for Business Skills visas;
- align key skill standards across the General Skilled Migration, Employer Nomination and Business Skills visas to improve the integrity of the skilled visa program;
- introduce a new requirement for applicants to be invited by the Minister to apply for a General Skilled Migration or Business Skills visa;
- require that applications for the new skilled visas must be lodged electronically;
- simplify visa subclasses by eliminating distinctions between applications made onshore and offshore, and by removing complex qualifying visa requirements; and
- make a number of minor and technical amendments.

Details of the *Migration Amendment Regulation 2012 (No. 2)*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Migration Amendment Regulation 2012 (No. 2)*.

Section 2 – Commencement

This section provides for sections 1 to 3 and Schedule 1 of the Regulation to commence on 1 July 2012.

Section 4 and Schedule 2 of the Regulation commence on 1 July 2013.

Section 3 – Amendment of *Migration Regulations 1994 – Schedule 1*

This section provides that Schedule 1 amends the *Migration Regulations 1994*.

Section 4 – Amendment of *Migration Regulations 1994 – Schedule 2*

This section provides that Schedule 2 amends the *Migration Regulations 1994*.

Schedule 1 – Amendments commencing on 1 July 2012

Item [1] - Regulation 1.03, after definition of *bogus document*

This item inserts a definition of ‘business innovation and investment points test’ in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

‘Business innovation and investment points test’ means the test set out in Schedule 7A.

This amendment is consequential to amendments in items [85] and [120] of Schedule 1 to this Regulation.

Item [2] - Regulation 1.03, definition of *designated area*, including the note

This item substitutes the definition of ‘designated area’ in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.03 currently provides that the definition of ‘designated area’ is an area specified by the Minister in an instrument in writing for item 6701 of Schedule 6 as a designated area.

This amendment provides that a ‘designated area’ is an area specified as a designated area by the Minister in an instrument in writing for this definition.

This amendment is consequential to the repeal of Schedule 6 in item [116] in this Schedule.

Item [3] - Regulation 1.03, definition of *designated security*

This item omits the definition of ‘designated security’ in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.03 currently defines ‘designated security’ as an investment in a security specified under regulation 2.26C.

This amendment is consequential to the repeal of regulation 2.26C in item [36] in this Schedule.

Item [4] - Regulation 1.03, definition of *General Skilled Migration visa*

This item substitutes the definition of ‘General Skilled Migration visa’ in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.03 currently provides that ‘General Skilled Migration visa’ means a Subclass 175, 176, 475, 485, 487, 885, 886 or 887 visa, granted at any time.

This amendment includes three new visa subclasses in this definition: Subclass 189 (Skilled – Independent), Subclass 190 (Skilled – Nominated) and Subclass 489 (Skilled – Regional (Provisional)).

Item [5] - Regulation 1.07

This item substitutes regulation 1.07 (References to subclasses of visas) in Division 1.2 of Part 1 of the Principal Regulations.

The new regulation 1.07 is an interpretative provision relating to references to subclasses of visas in the Principal Regulations.

New subregulation 1.07(1) provides that a reference to a visa of a particular subclass is a reference to a visa granted on satisfaction of the criteria set out in the relevant Part of Schedule 2 to the Principal Regulations. In addition, new subregulation 1.07(1) provides that a reference to a visa of a particular subclass may also be a reference to a visa granted on satisfaction of the criteria for the grant of the visa in a stream, as set out in a Part in Schedule 2 to the Principal Regulations.

New subregulation 1.07(2) provides that a reference to an applicant for a visa of a particular subclass is a reference to an applicant who applies for a visa that may be granted on satisfaction of the criteria set out in the relevant Part of Schedule 2 to the Principal Regulations. In addition, new subregulation 1.07(2) provides that a reference to an applicant for a visa of a particular subclass may also be a reference to an applicant who applies for a visa that may be granted on satisfaction of the criteria for the grant of the visa in a stream, as set out in a Part in Schedule 2 to the Principal Regulations.

The purpose of new regulation 1.07 is to make clear the meanings of the relevant references following the insertion of a new subregulation 2.03(1A) in regulation 2.03 by item [19] in this Schedule. New subregulation 2.03(1A) introduces the concept of “streams” into the criteria set out in Schedule 2 to the Principal Regulations.

Item [6] - Subregulation 1.11A(1)

This item omits the reference to Parts 160, 161, 162, 163, 164, 165, 845, and 846 from subregulation 1.11A(1) to Schedule 1 of the Principal Regulations.

Subregulation 1.11A(1) relates to beneficial ownership of an asset, eligible investment or ownership interest.

The amendment omits these Parts from subregulation 1.11A(1) as a consequence of the amendments in items [44] and [66] of Schedule 1 to this Regulation, which close these visa classes to new primary applicants from 1 July 2012.

Item [7] - After subregulation 1.12(5)

This item inserts subregulation 1.12(5A) in regulation 1.12 in Division 1.2 of Part 1 of the Principal Regulations.

The purpose of regulation 1.12 is to define when a person is to be taken to be a member of the family unit of another person.

New subregulation 1.12(5A) provides that, in addition to the current provisions in subregulation 1.12(1), a person may be a member of the family unit of an applicant for a

Business Skills (Permanent) (Class EC) visa if at the time of application the person holds a visa of a subclass included in Business Skills (Provisional) (Class EB) granted on the basis that the person was a member of the family unit for that visa, and the person is included in the application for the Business Skills (Permanent) (Class EC) visa.

The effect of the amendment is that certain holders of a Business Skills (Provisional) (Class EB) visa are taken to be a member of the family unit of an applicant for a Business Skills (Permanent) (Class EC) visa in prescribed circumstances where they would not otherwise meet the definition of a member of the family unit in subregulation 1.12(1).

Item [8] - Subparagraph 1.12(9)(d)(ii)

This item substitutes subparagraph 1.12(9)(d)(ii) in regulation 1.12 of Division 1.2 of Part 1 of the Principal Regulations.

The purpose of regulation 1.12 is to define when a person is to be taken to be a member of the family unit of another person.

Current subparagraph 1.12(9)(d)(ii) refers to a Bridging A or Bridging B visa granted on the basis of a valid application for a Skilled – Independent Regional (Provisional) (Class UX) visa, or a Skilled (Provisional) (Class VC) visa.

New subparagraph 1.12(9)(d)(ii) also refers to a Bridging A or Bridging B visa granted on the basis of a valid application for the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

The effect of the amendment is that the holder of a Bridging A or Bridging B visa granted on the basis of a valid application for the new Skilled – Regional Sponsored (Provisional) (Class SP) visa is taken to be a member of the family unit of an applicant for a Skilled (Residence) (Class VB) visa in prescribed circumstances where they would not otherwise meet the definition of a member of the family unit in subregulation 1.12(1).

Item [9] – Subparagraph 1.12(9)(d)(v)

This item omits the words ‘visa and;’ from subparagraph 1.12(9)(d)(v) of Division 1.2 of Part 1 of the Principal Regulations and substitute the words ‘visa; or’.

This is a technical amendment to facilitate the insertion of new subparagraph 1.12(9)(d)(v) by item [10] in this Schedule.

Item [10] – After subparagraph 1.12(9)(d)(v)

This item inserts new subparagraph 1.12(9)(d)(vi) in regulation 1.12 of Division 1.2 of Part 1 of the Principal Regulations.

The purpose of regulation 1.12 is to define when a person is to be taken to be a member of the family unit of another person.

New subparagraph 1.12(9)(d)(vi) refers to the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

The effect of the amendment is that the holder of a Skilled – Regional Sponsored (Provisional) (Class SP) visa is taken to be a member of the family unit of an applicant for a Skilled (Residence) (Class VB) visa in prescribed circumstances where they would not otherwise meet the definition of a member of the family unit in subregulation 1.12(1).

Item [11] - After subregulation 1.12(10)

This item inserts new subregulations 1.12(11) and (12) in regulation 1.12 in Division 1.2 of Part 1 of the Principal Regulations.

The purpose of regulation 1.12 is to define when a person is to be taken to be a member of the family unit of another person.

New subregulation 1.12(11) provides that in addition to the provisions in subregulation 1.12(1), a person is a member of the family unit of an applicant for an Employer Nomination (Permanent) (Class EN) visa if at the time of application the person holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that the person was a member of the family unit of the holder of a Subclass 457 (Business (Long Stay)) visa and is included in the application for an Employer Nomination (Permanent) (Class EN) visa.

New subregulation 1.12(12) provides that in addition to the provisions in subregulation 1.12(1), a person is a member of the family unit of an applicant for a Regional Employer Nomination (Permanent) (Class RN) visa if at the time of application the person holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that the person was a member of the family unit of the holder of a Subclass 457 (Business (Long Stay)) visa and is included in the application for a Regional Employer Nomination (Permanent) (Class RN) visa.

The effect of the amendment is that the holder of a Subclass 457 (Business (Long Stay)) visa is taken to be a member of the family unit of an applicant for an Employer Nomination (Permanent) (Class EN) visa or a Regional Employer Nomination (Permanent) (Class RN) visa in prescribed circumstances where they would not otherwise meet the definition of a member of the family unit in subregulation 1.12(1).

Item [12] - Regulations 1.15B to 1.15D

This item substitutes regulation 1.15B (Vocational English), 1.15C (Competent English) and 1.15D (Proficient English) in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.15B

This amendment omits redundant subregulations 1.15B(1), (2) and (3) and amends the provisions in subregulation (4) to align with the broader skilled visa program. Regulation 1.15B prescribes the definition of ‘vocational English’ based on when an application was made and the type of visa application made.

New regulation 1.15B amends current subregulation 1.15B(4) to provide that a person has ‘vocational English’ if the person undertook a language test that is specified by the Minister in writing, the test was conducted in the three years before the application was made and the person achieved a score specified in the instrument. Additionally, regulation 1.15B provides

that a person has ‘vocational English’ if the person holds a passport of a type specified by the Minister in an instrument in writing.

The purpose of this amendment is to extend the definition of ‘vocational English’ to all applications made for any visa at any time. The amendments align this definition with definitions of other English language proficiency standards, as amended by this Regulation, by increasing the period of time in which a test may be taken from 12 months to three years before an application is made. New regulation 1.15B also aligns with other definitions by prescribing that holders of certain passports are considered to have ‘vocational English’ without being required to undertake a language test.

Regulation 1.15C

Regulation 1.15C prescribes the definition of ‘competent English’ for an applicant for a General Skilled Migration visa. An applicant may establish their English language skills by undertaking a specified language test and achieving a specified score within the two years immediately before the application was made. Alternatively an applicant is taken to have ‘competent English’ where the applicant holds a specified passport.

New regulation 1.15C provides that this definition applies to all visa applicants and is not restricted to an applicant for a General Skilled Migration visa. The amended regulation also provides that the applicant may have achieved the specified score in a specified test in the three years before the time of application.

The purpose of this amendment is to extend the validity period of language test scores used by visa applicants and allow the use of the same English language standards for all visas across the skilled program.

Regulation 1.15D

Regulation 1.15D prescribes the definition of ‘proficient English’ for an applicant for a General Skilled Migration visa. An applicant may establish their English language skills by undertaking a specified language test and achieving a specified score within the two years immediately before the application was made.

New regulation 1.15D provides that this definition applies to all visa applicants and is not restricted to an applicant for a General Skilled Migration visa. The amended regulation also provides that the applicant may have achieved the specified score in a specified test in the three years before the time of application.

The purpose of this amendment is to extend the validity period of language test scores used by visa applicants and allow the use of the same English language standards for all visas across the skilled program.

Item [13] - Regulation 1.15EA

This item substitutes Regulation 1.15EA (Superior English) in Division 1.2 in Part 1 of the Principal Regulations.

Regulation 1.15EA prescribes the definition of ‘superior English’ for an applicant for a General Skilled Migration visa. An applicant may establish their English language skills by undertaking a specified language test and achieving a specified score within the two years immediately before the application was made.

New regulation 1.15EA provides that this definition applies to all visa applicants and is not restricted to an applicant for a General Skilled Migration visa. The amended regulation also provides that the applicant may have achieved the specified score in a specified test in the three years before the time of application.

The purpose of this amendment is to extend the validity period of language test scores used by visa applicants and allow the use of the same English language standards for all visas across the skilled program.

Item [14] - Subregulation 1.15F(2)

This item substitutes subregulation 1.15F(2) in Division 1.2 of Part 1 of the Principal Regulations.

Subregulation 1.15F(2) establishes the definitions of certain terms used in Regulation 1.15F. New Subregulation 1.15F(2) provides that the meaning of ‘degree’, ‘diploma’ and ‘trade qualification’ is the meaning given in subregulation 2.26AC(6). The definition of ‘completed’ is unchanged.

This amendment is consequential to the repeal of regulation 2.26A by item [32] and the insertion of new regulation 2.26AC by item [35] in this Schedule.

Item [15] - Regulation 1.19, including the note

This item omits Regulation 1.19 (Occupations requiring English list) in Division 1.3 of Part 1 of the Principal Regulations.

Regulation 1.19 provides that the Minister may specify a list of occupations requiring proficiency in English under Part 3 of Schedule 6.

This amendment is consequential to the repeal of Schedule 6 by item [116] in this Schedule.

Item [16] - Paragraph 1.20(2)(a)

This item amends paragraph 1.20(2)(a) of Division 1.4 of Part 1 of the Principal Regulations.

Subregulation 1.20(2) sets out the obligations that apply to the sponsor of an applicant for a permanent visa. This amendment inserts a reference to the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

The purpose of this amendment is to extend the existing obligations of sponsors of applicants for permanent visas to sponsors of applicants for a Skilled – Regional Sponsored (Provisional) (Class SP) visa. Affected sponsors will undertake to assist the applicant, to the extent necessary, financially and in relation to accommodation, for two years after the grant

of the Class SP visa or arrival in Australia on a Class SP visa, whichever is latest. Extending this obligation to sponsors of provisional visa holders will ensure these visa holders have access to support when they first settle in Australia.

Item [17] - Subregulation 1.20(3)

This item amends subregulation 1.20(3) of Division 1.4 of Part 1 of the Principal Regulations.

Subregulation 1.20(3) requires all sponsors to complete an approved form and provide it to the Minister within a reasonable period of being approved as a sponsor, unless they are sponsoring an applicant for a visa listed in subregulation 1.20(3A).

The purpose of this amendment is to also exempt the sponsor of a Skilled – Regional Sponsored (Provisional) (Class SP) visa from this requirement. This amendment reflects changes to the processing arrangements for the Class SP visa, which may only be applied for and processed online.

Item [18] - Subparagraph 1.41(3)(a)(v)

This item substitutes subparagraph 1.41(3)(a)(v) of Division 1.8 of Part 1 of the Principal Regulations.

Subregulation 1.41(3) prescribes matters the Minister must have regard to when determining assessment levels for the student visa program. Subparagraph 1.41(3)(a)(v) provides that a relevant consideration is the number of student visa holders who have applied for permanent visas other than visas prescribed in this provision.

This amendment substitutes the list of current skilled visas with the list of the new skilled visas inserted by this Regulation.

Item [19] - After subregulation 2.03(1)

This item inserts new subregulations 2.03(1A) and (1B) in regulation 2.03 (Criteria applicable to classes of visas) in Division 2.1 of Part 2 of the Principal Regulations.

Regulation 2.03 prescribes the criteria, for the purposes of subsection 31(3) of the Act, that must be satisfied by an applicant for the grant of a visa. Current subregulation 2.03(1) prescribes the primary criteria or the secondary criteria set out in the relevant Part of Schedule 2 to the Principal Regulations.

New subregulation 2.03(1A) provides that if one or more criteria in a subdivision of a Part of Schedule 2 to the Principal Regulations are set out as a stream, the primary criteria for the grant of a visa of that subclass will be the primary criteria in the stream and any primary criteria that are not part of a stream. The secondary criteria for the grant of the visa of that subclass will be the secondary criteria in the stream and any secondary criteria that are not part of a stream.

New subregulation 2.03(1B) provides that where a relevant part of Schedule 2 to the Principal Regulations contains criteria in a stream, the visa may be described as a visa of the relevant subclass number, in the stream as named in the relevant subdivision of the criteria.

The purpose of new subregulations 2.03(1A) and (1B) is to introduce streams within the Schedule 2 criteria for the grant of a visa. The introduction of a formal stream structure is integral to the Visa Simplification and Deregulation program which aims to reduce the size and complexity of the Principal Regulations.

The streams operate in such a way that an applicant seeking a visa on the basis of satisfying the criteria for a stream, will be required to satisfy any criteria set out in that stream, and any other criteria, referred to as “common criteria”, for that subclass in order to be granted the visa. The Schedule 1 requirements for making a valid application and the Schedule 2 criteria for the grant of a visa prescribe whether a visa applicant applying for a visa subclass is eligible to be assessed against the criteria of each stream of that subclass, or is required to nominate the stream they seek to satisfy when completing the application form.

The amendments include examples, based on the new Subclass 188 (Business Innovation and Investment (Provisional)) visa, which is inserted by item [85] of Schedule 1 to the Regulation.

Item [20] - After subparagraph 2.03A(3)(a)(ii)

This item inserts new subparagraph 2.03A(3)(a)(ia) in regulation 2.03A of Division 2.1 of Part 2 of the Principal Regulations.

Regulation 2.03A provides that in addition to the criteria prescribed by regulation 2.03, if a person claims to be in a de facto relationship for the purposes of a visa application, the criteria in subregulations 2.03A(2) and (3) are prescribed. Subregulation 2.03A(3) provides that if a person applies for a visa including a Business Skills (Provisional) (Class UR) visa, and the applicant cannot establish compelling and compassionate circumstances for the grant of the visa, the Minister must be satisfied that the applicant has been in the de facto relationship for at least the period of 12 months ending immediately before the date of the application.

The amendment inserts a new subparagraph in paragraph 2.03A(3)(a) to include a person who applies for the Business Skills (Provisional) (Class EB) visa.

The purpose of this amendment is to impose the same limitations on the period in which an applicant for the Business Skills (Provisional)(Class EB) visa must have been in the de facto relationship, as those that are applicable to the current Business Skills (Provisional)(Class UR) visa.

Item [21] - After subregulation 2.05(4)

This item inserts a new subregulation 2.05(4AA) in regulation 2.05 in Division 2.1 of Part 2 of the Principal Regulations.

Regulation 2.05 relates to conditions applicable to visas.

Subsection 41(2A) of the Act provides in part that the Minister may waive a condition prohibiting a visa holder from being granted a substantive visa while he or she remains in Australia in prescribed circumstances. For the purposes of subsection 41(2A), new subregulation 2.05 (4AA) provides that a further circumstance in which the Minister may waive condition 8503, which prohibits the visa holder from being granted a further substantive visa (other than a protection visa) while in Australia, is that the holder of the visa genuinely intends to apply for a General Skilled Migration visa, a Subclass 132 (Business Talent) visa, a Subclass 186 (Employer Nomination Scheme) visa, a Subclass 187 (Regional Sponsored Migration Scheme) visa or a Subclass 188 (Business Innovation and Investment (Provisional)) visa.

The purpose of the amendment is to allow a person who has been invited by the Minister to apply for a Business Skills or General Skilled Migration visa, or nominated by an Australian employer, to apply for that visa where the person would not otherwise be permitted to make a further visa application while in Australia.

Item [22] - Paragraph 2.05(5A)(b)

This item substitutes paragraph 2.05(5A)(b) in regulation 2.05 in Division 2.1 of Part 2 of the Principal Regulations.

Current subregulation 2.05(5A) provides that for subsection 41(2A) of the Act, a further circumstance under which the Minister may waive condition 8534 is that the holder has completed the course for which the visa was granted and genuinely intends to apply for a General Skilled Migration visa. Condition 8534 prohibits the holder of a visa subject to the condition from being granted a further substantive visa (other than a protection visa or certain student visas) while in Australia.

New paragraph 2.05(5A)(b) provides that the Minister may waive condition 8534 where the holder has completed the course for which the visa was granted and genuinely intends to apply for a General Skilled Migration visa, a Subclass 132 (Business Talent) visa, a Subclass 186 (Employer Nomination Scheme) visa, a Subclass 187 (Regional Sponsored Migration Scheme) visa, or a Subclass 188 (Business Innovation and Investment (Provisional)) visa.

The purpose of the amendment is to allow a person who has been invited by the Minister to apply for a Business Skills or General Skilled Migration visa, or nominated by an Australian employer, to apply for that visa where the person would not otherwise be permitted to make a further visa application while in Australia.

Item [23] - Regulation 2.07AG

This item substitutes regulation 2.07AG (Applications for certain substantive visas by persons for whom condition 8534 has been waived under subregulation 2.05(5) or (5A)) in Division 2.2 of Part 2 of the Principal Regulations.

Current regulation 2.07AG provides that a person for whom condition 8534 was waived under subregulation 2.05(5) or (5A) may only make a valid application for a General Skilled Migration visa while in Australia.

New subregulation 2.07AG(1) imposes limitations on the visas for which a person may make a valid application if the person holds, or held, a visa which was subject to condition 8503 and that condition has been waived by the Minister under new subregulation 2.05(4AA), which is inserted by item [21] of Schedule 1 to this Regulation, above.

New subregulation 2.07AG(1) provides that an application for a substantive visa by a person for whom condition 8503 has been waived under subregulation 2.05(4AA) is a valid application only if the application is for a General Skilled Migration visa, a Subclass 132 (Business Talent) visa, a Subclass 186 (Employer Nomination Scheme) visa, a Subclass 187 (Regional Sponsored Migration Scheme) visa or a Subclass 188 (Business Innovation and Investment (Provisional)) visa.

New subregulation 2.07AG(2) imposes limitations on the visas for which a person may make a valid application if the person holds, or held, a visa which was subject to condition 8534 and that condition has been waived by the Minister under subregulation 2.05(5) or subregulation 2.05(5A), which is amended by item [22] of Schedule 1 to this Regulation.

New subregulation 2.07AG(2) provides that an application for a substantive visa by a person for whom condition 8534 has been waived under subregulation 2.05(5) or new subregulation 2.05(5A) is a valid application only if the application is for a General Skilled Migration visa, a Subclass 132 (Business Talent) visa, a Subclass 186 (Employer Nomination Scheme) visa, a Subclass 187 (Regional Sponsored Migration Scheme) visa or a Subclass 188 (Business Innovation and Investment (Provisional)) visa.

The purpose of the amendment is to support the integrity of the amendments made by items [21] and [22] above, by ensuring that where a visa condition was waived to allow an application for a skilled visa to be made in Australia, a person will only be able to apply for a skilled visa.

Item [24] - Subregulation 2.08A(2A), except the note

This item substitutes subregulation 2.08A(2A) of Division 2.2 of Part 2 of the Principal Regulations.

Subregulation 2.08A(2A) excludes certain General Skilled Migration visas from the operation of regulation 2.08A, which in prescribed circumstances allows a spouse or dependent child to be added to an application and be taken to have made a combined application with the person seeking to satisfy the primary criteria.

New subregulation 2.08A(2A) removes the reference to the Skilled – Independent Overseas Student (Residence)(Class DD), and the Skilled – Australian-sponsored Overseas Student (Residence)(Class DE) visas that is repealed by item [56] of this Regulation.

Item [25] - After subparagraph 2.08B(1)(a)(viii)

This item inserts new subparagraph 2.08B(1)(a)(viii) in Division 2.2 of Part 2 of the Principal Regulations.

Regulation 2.08B provides that for certain temporary visas, an applicant may add a dependent child to their application after the application is made but before it is decided, subject to notification and other requirements provided in regulation 2.08B.

Paragraph 2.08B(1)(a) prescribes the temporary visas to which regulation 2.08B applies.

New subparagraph 2.08B(1)(a)(viiiia) inserts a Business Skills (Provisional) (Class EB) visa into the list of temporary visas to which regulation 2.08B applies.

The effect of this amendment is that applicants for the new Business Skills (Provisional) (Class EB) visa receive the benefit of adding a dependent child to the application after the application is made and before decision, where the requirements in regulation 2.08B that currently apply to applicants for the Business Skills (Provisional) (Class UR) visa have been met.

Item [26] - Subparagraph 2.08B(1)(a)(xii)

This item substitutes subparagraph 2.08B(1)(a)(xii) and inserts a new subparagraph 2.08B(1)(a)(xiii) in regulation 2.08B of Division 2.2 of Part 2 of the Principal Regulations.

Paragraph 2.08B(1) prescribes the temporary visas to which regulation 2.08B applies. Regulation 2.08B provides that for certain temporary visas, an applicant may add a dependent child to their application after the application is made but before it is decided, subject to notification and other requirements provided in regulation 2.08B.

New subparagraphs 2.08B(1)(a)(xii) and (xiii) extends the application of this regulation to the new Skilled – Regional Sponsored (Provisional) (Class SP) visa. This amendment is consequential to the insertion of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa in item [76] in this Schedule.

Item [27] - Regulations 2.08C to 2.08DA

This item omits regulations 2.08C to 2.08DA of Division 2.2 of Part 2 of the Principal Regulations.

Regulation 2.08C provides for certain skilled visa applicants to be deemed to have made an application for an Employer Nomination (Migrant) (Class AN) or Labour Agreement (Migrant) (Class AU) visas.

Regulations 2.08CA and 2.08CB provide for certain skilled visa applicants to be deemed to have applied for an Employer Nomination (Residence) (Class BW) visa.

Regulation 2.08CC provides for certain skilled visa applicants to be deemed to have applied for a Labour Agreement (Residence) (Class BV) visa.

Regulation 2.08D provides for certain skilled visa applicants to be invited to make an application for an Independent (Migrant) (Class AT) or Skilled – Australian-linked (Migrant) (Class AJ) visa.

Regulation 2.08DA provides for certain skilled visa applicants to be invited to make an application for a Skilled – Independent Regional (Provisional) (Class UX) visa.

The amendment omits these regulations and is consequential to items [50], [51], [54] and [55] in this Schedule that close the Class AN, Class BW, Class AU and Class BV to new applications and items [53], [56] and [71] that repeal the Class AT, Class AJ and Class UX visas.

Item [28] - Paragraph 2.11(1)(a)

This item substitutes paragraph 2.11(1)(a) of Division 2.2 of Part 2 of the Principal Regulations.

Current paragraph 2.11(1)(a) provides that the provisions in regulation 2.11, under which an applicant whose visa application has been refused may be invited to make a further application, apply to any visa application made outside Australia and applications for certain skilled visas made in Australia.

This amendment omits the reference to applications for skilled visas made in Australia from regulation 2.11.

The purpose of this amendment is to remove references to visas that have been closed to new applicants since 2007 and are repealed by this Regulation.

Item [29] - Subregulation 2.12(4), including the note

This item omits subregulation 2.12(4), including the note of Division 2.2 of Part 2 of the Principal Regulations.

Subregulation 2.12(4) extends the operation of regulation 2.12 to certain skilled visas where an invitation to apply for those visas has been issued under regulation 2.11.

This amendment is consequential to item [28] above that removes the capacity to invite applications for the relevant skilled visas under regulation 2.11.

Item [30] - Paragraph 2.22(2)(b)

This item replaces the word ‘application;’ with ‘application.’ in paragraph 2.22(2)(b) of Division 2.5 of Part 2 of the Principal Regulations.

This is a technical amendment to facilitate the omission of paragraphs 2.22(2)(c) to (e) in item [31].

Item [31] - Paragraphs 2.22(2)(c) to (e)

This item omits paragraphs 2.22(2)(c) to (e) of Division 2.5 of Part 2 of the Principal Regulations.

Paragraphs 2.22(c) to (e) excludes from the operation of regulation 2.22 Graduate – Skilled (Temporary) (Class UQ), Skilled – Independent Overseas Student (Residence) (Class DD) and Skilled – Australian-sponsored Overseas Student (Residence)(Class DE) visas.

The amendment omits references to these visas and is consequential to the repeal of Class UQ, Class DD and Class DE visas by items [56] and [67] in this Schedule.

Item [32] - Regulations 2.26 and 2.26A

This item omits regulations 2.26 and 2.26A of Division 2.6 of Part 2 of the Principal Regulations.

Regulation 2.26 prescribes qualifications and points for applicants for an Independent (Migrant) (Class AT) and a Skilled – Australian-linked (Migrant) (Class AJ) visa, for the purposes of subsection 93(1) of the Act.

Regulation 2.26A prescribes qualifications and points for applicants for skilled visas for which applications closed in 2007, for the purposes of subsection 93(1) of the Act.

This amendment omits these regulations and is consequential to the repeal of the visas to which these regulations relate by this Regulation. New regulation 2.26AC that is inserted by item [35] in this Schedule replaces these regulations for applications for the new General Skilled Migration visas inserted by this Regulation.

Item [33] - Subregulation 2.26AA(9)

This item substitutes subregulation 2.26AA(9) of Division 2.6 of Part 2 of the Principal Regulations.

Subregulation 2.26AA(9) defines ‘degree’, ‘diploma’, ‘employed’ and ‘trade qualification’ as used in regulation 2.26AA and Schedule 6B, in relation to the definition of those terms in regulation 2.26A.

New subregulation 2.26AA(9) defines those terms using the definition established in the new regulation 2.26AC inserted by item [35] below. The definition of ‘professional year’ is unchanged.

This amendment is consequential to the repeal of regulation 2.26A by item [32] of this Schedule.

Item [34] - Subregulation 2.26AB(7)

This item substitutes subregulation 2.26AB(7) of Division 2.6 of Part 2 of the Principal Regulations.

Subregulation 2.26AB(7) defines certain terms used in regulation 2.26AB and Schedule 6C, using the definition of those terms in regulation 2.26A.

New subregulation 2.26AA(9) defines those terms using the definition established in the new regulation 2.26AC that is inserted by item [35] below. The definition of ‘professional year’ is unchanged.

This amendment is consequential to the repeal of regulation 2.26A by item [32] above.

Item [35] – After regulation 2.26AB

This item inserts new regulation 2.26AC in Division 2.6 of Part 2 to the Principal Regulations.

New regulation 2.26AC prescribes the qualifications and number of points under new Schedule 6D for the new Skilled – Independent (Permanent) (Class SI); Skilled – Nominated (Permanent) (Class SN); and Skilled – Regional Sponsored (Provisional) (Class SP) visas. Subregulation 2.26AC(1) prescribes that for subsection 93(1) of the Act which provides that the Minister shall make an assessment under the points test by giving the applicant the prescribed number of points for each prescribed qualification that is satisfied by an applicant, this regulation applies to applications for a Skilled – Independent (Permanent) (Class SI) visa, Skilled – Nominated (Permanent) (Class SN) visa or a Skilled – Regional (Provisional) (Class SP) visa.

New subregulation 2.26AC(2) prescribes that each qualification specified in an item of Schedule 6D is a qualification in relation to the grant to the applicant of a Subclass 189 (Skilled – Independent); Subclass 190 (Skilled – Nominated); or Subclass 489 (Skilled – Regional (Provisional)) visa.

Subregulation 2.26AC(3) prescribes that the number of points prescribed for a qualification specified in an item in Schedule 6D is specified in the item.

Subregulation 2.26AC(4) prescribes that the Minister must not give the applicant a prescribed number of points for more than one prescribed qualification in each part of Schedule 6D, or if the applicant’s circumstances satisfy more than one prescribed qualification in Schedule 6D, the Minister must give the applicant points for the qualification that attracts the highest number of points.

Subregulation 2.26AC(5) prescribes that for new items 6D71 and 6D72 of Part 6D7, in determining whether an educational qualification is of a recognised standard, the Minister must have regard to whether, at the time the invitation to apply for the visa was issued, the educational qualification had been recognised by the relevant assessing authority for the applicant’s nominated skilled occupation as being suitable for the occupation. The Minister must also have regard to whether the educational qualification was recognised by a body specified by the Minister in an instrument in writing for this provision, the duration of the applicant’s study towards the educational qualification, and any other relevant matter. Subregulation 2.26AC(6) defines for the purposes of Schedule 6D the terms ‘degree’, ‘diploma’, ‘trade qualification’, ‘employed’ and ‘professional year’. The definitions mirror the definitions currently specified in regulation 2.26A, which are used for the purposes of Schedules 6A, 6B and 6C to the Principal Regulations.

The purpose of the amendment is to prescribe the points test in Schedule 6D as the relevant points test for applicants seeking a new Skilled – Independent (Permanent) (Class SI) visa, Skilled – Nominated (Permanent) (Class SN) visa or a Skilled – Regional (Provisional) (Class SP) visa.

Item [36] – Regulations 2.26C to 2.27A

This item omits regulation 2.26C to 2.27A of Division 2.6 of Part 2 of the Principal Regulations.

Regulation 2.26C provides for the Minister to specify a designated security for the purposes of Part 8 of Schedule 6A.

Regulation 2.27 provides for the points test scores of the primary applicant for a Skilled – Australian-linked (Migrant) (Class AJ) visa and their spouse to be combined for the purposes of the Schedule 6 points test.

Regulation 2.27A provides for the points test scores of the primary applicant for a Skilled — Australian-sponsored (Class BQ) visa, Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa, or Skilled — New Zealand Citizen (Residence) (Class DB) visa, to be combined with the points test score of the primary applicant’s spouse for the purposes of the Schedule 6A points test.

Consequential to the amendments made by item [116] to repeal Schedule 6 and 6A to the Principal Regulations, regulations 2.26C and 2.27A are redundant.

Item [37] - Regulations 2.29A to 2.29K

This item omits regulation 2.29A to 2.29K of Division 2.6 of Part 2 of the Principal Regulations.

Regulation 2.29A is a transitional provision relating to applications for a Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29B is a transitional provision relating to applications for a Skilled – Independent Overseas Student (Residence) (Class DD) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29C is a transitional provision relating to applications for a Graduate – Skilled (Temporary) (Class UQ) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29D is a transitional provision relating to applications for a Subclass 134 (Skill Matching) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29E is a transitional provision relating to applications for a Subclass 136 (Skilled – Independent) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29F is a transitional provision relating to applications for a Subclass 137 (Skilled – State/Territory-nominated Independent) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29G is a transitional provision relating to applications for a Subclass 138 (Skilled – Australian-sponsored) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29H is a transitional provision relating to applications for a Subclass 139 (Skilled – Designated Area-sponsored) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29I is a transitional provision relating to applications for a Subclass 861 (Skilled – Onshore Independent New Zealand Citizen) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29J is a transitional provision relating to applications for a Subclass 862 (Skilled – Onshore Australian-sponsored New Zealand Citizen) visa made between 1 July 2003 and 1 April 2004.

Regulation 2.29K is a transitional provision relating to applications for a Subclass 863 (Skilled – Onshore Designated Area-sponsored New Zealand Citizen) visa made between 1 July 2003 and 1 April 2004.

The amendment repeals these regulations, which only applied to visa applications made between 1 July 2003 and 1 April 2004, and which are now redundant.

Item [38] - Paragraphs 2.50(2)(d) and (e)

This item substitutes paragraphs 2.50(2)(d) and (e) for new paragraphs 2.50(2)(d), (e), (f) and (g) in Division 2.9 of Part 2 of the Principal Regulations.

Subregulation 2.50(2) prescribes classes of visas for paragraph (a) of the definition of ‘business visa’ in subsection 134(10) of the Act. Paragraph 134(10)(a) of the Act defines a ‘business visa’ as a visa included in a class of visas that has the words ‘Business Skills’ in its title and is prescribed for the purposes of paragraph 134(10)(a) of the Act.

This item includes the new Business Skills (Provisional) (Class EB) visa in subregulation 2.50(2) at new paragraph 2.50(2)(d). This item also includes the new Business Skills (Permanent) (Class EC) visa in subregulation 2.50(2) at paragraph 2.50(2)(f). Paragraphs 2.50(2)(e) and (g) are included in subregulation 2.50(2) of the Principal Regulations, but will have new paragraph numbers.

The purpose of this amendment is to prescribe the new business skills visas, the Business Skills (Provisional) (Class EB) visa and the Business Skills (Permanent) (Class EC) visa for the purposes of paragraph 134(10)(a) of the Act, which has the effect that the new Business Skills visas are subject to the Business Skills visa cancellation power in section 134 of the Act.

Item [39] - Regulation 2.50AA

This item substitutes a new regulation 2.50AA (Cancellation of regional sponsored employment visas) in Division 2.9 of Part 2 of the Principal Regulations.

Current regulation 2.50AA prescribes visas that are ‘regional sponsored employment visas’ for the purposes of section 137Q of the Act, and the periods within which the visa holder must commence the employment referred to in the relevant employer nomination to avoid giving rise to the discretion to cancel the visa under section 137Q of the Act.

New regulation 2.50AA prescribes the Subclass 187 (Regional Sponsored Migration Scheme) visa, inserted in Schedule 2 to the Principal Regulations by this Regulation, as a ‘regional sponsored employment visa’ for the purposes of section 137Q of the Act. Regulation 2.50AA also prescribes that if the holder of a Subclass 187 (Regional Sponsored Migration Scheme) visa was in Australia when the visa was granted the employment must be commenced within six months from the date of grant, or if the holder was outside Australia at the date of grant, within six months of the date the holder first entered Australia as the holder of the visa.

Regulation 2.50AA also continues to prescribe current Subclass 119 (Regional Sponsored Migration Scheme) and Subclass 857 (Regional Sponsored Migration Scheme) visas as ‘regional sponsored employment visas’, and provide that the relevant employment must be commenced within six months of the date of grant of the visa or the date of first entry to Australia as the holder of the visa, respectively.

Item [40] - Paragraph 4.02(4)(e)

This item substitutes paragraph 4.02(4)(e) in Division 4.1 of Part 4 of the Principal Regulations.

Regulation 4.02 prescribes decisions that are reviewable by the Migration Review Tribunal (MRT) for the purposes of section 338 of the Act.

New paragraph 4.02(4)(e) prescribes a decision made under regulation 5.19 to refuse an application for approval of a nominated position, as an MRT-reviewable decision.

The purpose of this amendment is to provide that a decision in relation to an application for approval of a nomination under regulation 5.19, made before or after 1 July 2012, is MRT-reviewable.

Item [41] - Regulation 5.19

This item substitutes a new regulation 5.19 (Approval of nominated positions (employer nomination)) for existing regulation 5.19 in Division 5.3 of Part 5 of the Principal Regulations.

The purpose of new regulation 5.19 is to set out the procedure for an application to the Minister for approval of a nomination of a position in Australia, and the requirements that must be met for approval. A nominated position approved under regulation 5.19 will satisfy certain criteria for the grant of a new Subclass 186 (Employer Nomination Scheme) visa or a

new Subclass 187 (Regional Sponsored Migration Scheme) visa, inserted in Schedule 2 to the Principal Regulations by item [85] of Schedule 1 of this Regulation.

Subregulations 5.19(1) and (2) set out the requirements for making an application for approval of a nomination of a position.

Subregulation 5.19(3) sets out the requirements for approval of a Temporary Residence Transition nomination. To meet the requirements, the nomination must be made by a standard business sponsor and identify the holder of a Subclass 457 (Business (Long Stay)) visa sponsored by the nominator. It must also identify an occupation that relates to the position that is the same occupation as that carried out by the Subclass 457 visa holder on a full-time basis for at least two years in the period of three years immediately before the nominator made the application. The position must be for employment in the nominator's own business, unless the Subclass 457 visa was granted under special provisions that allowed the Subclass 457 visa holder to work as an independent contractor in a specified occupation. Requirements relating to the nominator's business background must also be met.

A nomination approved under subregulation 5.19(3) will satisfy certain criteria for the grant of a new Subclass 186 (Employer Nomination Scheme) or Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream.

Subregulation 5.19(4) sets out the requirements for approval of a Direct Entry nomination. To meet the requirements the nominator must identify a need to employ a paid employee in the position for at least two years. Certain other requirements must also be met.

The tasks of the position must correspond to the tasks of an occupation specified by the Minister in an instrument and the nominator must meet specified requirements relating to training. Alternatively, if the position is located in regional Australia, it is sufficient for the tasks of the position to correspond to the tasks of an occupation at skill level 1, 2 or 3 under the Australian and New Zealand Standard Classification of Occupations (ANZSCO), and that a body that is specified by the Minister in an instrument and is located in the same State or Territory as the position has advised the Minister about whether the terms and conditions of employment applicable to the position would be as favourable as those provided to an Australian citizen or permanent resident performing equivalent work in the same location, whether there is a genuine need for the nominator to employ an employee in the position, and whether the position could be filled by an Australian citizen or permanent resident. The advice of the body is a relevant consideration in deciding outcome of the application.

A nomination approved as a Direct Entry nomination will satisfy certain criteria for the grant of a new Subclass 186 (Employer Nomination Scheme) or Subclass 187 (Regional Sponsored Migration Scheme) visa in the Direct Entry stream.

Subregulation 5.19(5) provides that unless subregulation 5.19(3) or (4) can be satisfied, the Minister must refuse an application for approval of a nomination of a position.

Subregulation 5.19(6) provides that the Minister must give the nominator a copy of the written decision on the application for approval, and if the decision is made to refuse the application, a written statement of the reasons why the nomination was refused and a written statement that the decision is an MRT-reviewable decision.

Subregulation 5.19(7) defines the meanings of the terms ‘adverse information’, ‘associated entity’, ‘associated with’, and ‘regional Australia’ for the purposes of regulation 5.19.

Item [42] - Regulation 5.37

This item substitutes a new regulation 5.37 (Employer nomination fee) for existing regulation 5.37 in Division 5.7 of Part 5 of the Principal Regulations.

The purpose of new regulation 5.37 is to prescribe the fee for an application for approval of a nomination under new regulation 5.19, which is substituted in the Principal Regulations by item [41], above.

New subregulation 5.37(2) prescribes the fee payable if the application seeks approval in accordance with subregulation 5.19(3) as a Temporary Residence Transition nomination. The fee is \$540 unless the position is located in regional Australia, in which case no fee is payable.

New subregulation 5.37(3) prescribes the fee payable if the application seeks approval as a Direct Entry nomination in accordance with subparagraph 5.19(4)(h)(i). The fee is \$540.

New subregulation 5.37(4) prescribes the fee payable if the application seeks approval as a Direct Entry nomination in accordance with subparagraph 5.19(4)(h)(ii), which makes special provisions for the approval of nominations of positions located in regional Australia. No fee is payable on these applications.

Item [43] - After Division 5.8

This item inserts a new Division 5.9 dealing with transitional arrangements in Part 5 of the Principal Regulations.

New regulation 5.45 (Operation of Schedule 13) provides that Schedule 13, in item [124] below, makes transitional arrangements in relation to amendments of the Principal Regulations.

Item [44] - Schedule 1, item 1104AA

This item substitutes Item 1104AA of Part 1 of Schedule 1 to the Principal Regulations. Item 1104AA prescribes the requirements for making a valid application for a Business Talent (Permanent) (Class EA) visa.

Subitem 1104AA(1) prescribes the form to be used to apply for a Class EA visa.

Subitem 1104AA(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1104AA(3) prescribes other matters, including that an application must be made as an internet application and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and an application by a person claiming to be a member of

the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1104AA(4) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 132 (Business Talent) visa in the Significant Business History stream must have been invited in writing by the Minister to apply for that visa, must apply within the period of time stated in the invitation and must be nominated by a State or Territory government agency. Prospective applicants will lodge an expression of interest for this visa stream electronically. Applicants who are nominated by a State or Territory government agency would be invited to apply for a Subclass 132 visa in the Significant Business History stream.

Subitem 1104AA(5) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 132 visa in the Venture Capital Entrepreneur stream must have been invited in writing by the Minister to apply for that visa, must apply within the period of time stated in the invitation and must be nominated by a State or Territory government agency. Prospective applicants will lodge an expression of interest for the visa electronically. Applicants who are nominated by a State or Territory government agency would be invited to apply for a Subclass 132 visa in the Venture Capital Entrepreneur stream.

Subitem 1104AA(6) prescribes Subclass 132 (Business Talent) as a subclass of the Class EA visa.

Item [45] - Schedule 1, before item 1104B

This item inserts a new Item 1104BA in Part 1 of Schedule 1 to the Principal Regulations. New item 1104BA prescribes the requirements for making a valid application for a Business Skills (Permanent) (Class EC) visa.

Subitem 1104BA(1) prescribes the form to be used to apply for a Class EC visa.

Subitem 1104BA(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1104BA(3) prescribes other matters, including that an application must be made as an internet application and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa. An applicant must be nominated by a State or Territory government agency, and an application by a person claiming to be a member of the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1104BA(4) prescribes the visas that an applicant may hold to make an application for a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Business Innovation stream. The subitem requires an applicant to hold a Subclass 188 visa in the Business Innovation stream or the Extension stream, or hold a Subclass 188 visa granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 visa in the Business Innovation stream or the Extension stream, if the primary applicant and the spouse or de facto partner have separated or the primary applicant has died. Further, an applicant is permitted to apply for a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Business Innovation stream if they hold a Subclass 444 (Special

Category) visa or a Subclass 457 (Business (Long Stay)) visa granted on the basis that the applicant, or the applicant's spouse or de facto partner, or the applicant's former spouse or de facto partner satisfied the criteria in subclause 457.223(7) or (7A) of Schedule 2 for the grant of the visa.

Subitem 1104BA(5) prescribes the visas that an applicant may hold to make an application for a Subclass 888 visa in the Investor stream. The subitem requires an applicant to hold a Subclass 188 visa in the Investor stream, or hold a Subclass 188 visa granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 visa in the Investor stream, if the primary applicant and the spouse have separated or if the primary applicant has died.

Subitem 1104BA(6) prescribes Subclass 888 (Business Innovation and Investment (Permanent)) as a subclass of the Class EC visa.

Item [46] - Schedule 1, before paragraph 1104A(3)(a)

This item inserts a new paragraph 1104A(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1104A(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for a Business Skills – Established Business (Residence) (Class BH) must be made before 1 July 2012.

The purpose of this amendment is to close the Business Skills – Established Business (Residence) (Class BH) visa to any further primary applications from 1 July 2012. This class of visa is replaced by the new Business Skills (Permanent) (Class EC) visa.

Item [47] - Schedule 1, paragraph 1104B(3)(d)

This item substitutes paragraph 1104B(3)(d) in Part 1 of Schedule 1 to the Principal Regulations.

Item 1104B prescribes the requirements to make a valid application for a Business Skills (Residence) (Class DF) visa.

New paragraph 1104B(3)(d) provides that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 890 (Business Owner) visa must hold a visa of a subclass included in Business Skills (Provisional) (Class UR), granted on the basis that the applicant, or the spouse or de facto partner of the applicant, or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa.

The purpose of this amendment is to retain the permanent visa pathway to the Subclass 890 visa for a holder of a Business Skills (Provisional) (Class UR) visa. Under item [66] the Business Skills (Provisional) (Class UR) visa is closed to new applications on 1 July 2012. The purpose of this amendment is to maintain the permanent visa pathway for Business Skills (Provisional) (UR) visa holders and remove the pathway to the Subclass 890 visa for other visa holders, who may be eligible to apply for permanent visas in other visa classes.

Item [48] - Schedule 1, paragraph 1104B(3)(f)

This item substitutes paragraph 1104B(3)(f) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1104B(3)(f) provides that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa must hold a visa of a subclass included in Business Skills (Provisional) (Class UR), granted on the basis that the applicant, or the spouse or de facto partner of the applicant, or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa.

The purpose of this amendment is to retain the permanent visa pathway to the Subclass 892 visa for a holder of a Business Skills (Provisional) (Class UR) visa. Under item [66] the Business Skills (Provisional) (Class UR) visa is closed to new primary applicants on 1 July 2012. The purpose of this amendment is to maintain the permanent visa pathway for Business Skills (Provisional) (UR) visa holders and to remove the pathway to the Subclass 890 visa for other visa holders, who may be eligible to apply for permanent visas in other visa classes.

Item [49] - Schedule 1, paragraph 1104B(3)(j)

This item omits paragraph 1104B(3)(j) in Part 1 of Schedule 1 to the Principal Regulations.

The purpose of this amendment is to remove the permanent pathway to a Subclass 892 visa for applicants who hold a Skilled – Independent Regional (Provisional) (Class UX) visa, who may be eligible to apply for permanent visas in other visa classes.

Item [50] – Schedule 1, before paragraph 1114(3)(a)

This item inserts a new paragraph 1114(3) (aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1114(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for the grant of an Employer Nomination (Migrant) (Class AN) visa must be made before 1 July 2012.

The effect of the amendment is to close the Subclass 119 (Regional Sponsored Migration Scheme) and Subclass 121 (Employer Nomination Scheme) visas to any further primary applicants from 1 July 2012. The Subclass 119 and 121 visas are replaced by the new Subclass 186 (Employer Nomination Scheme) and 187 (Regional Sponsored Migration Scheme) visas, inserted by item [85] of this Schedule.

Item [51] – Schedule 1, before paragraph 1114A(3)(a)

This item inserts a new paragraph 1114A(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1114A(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for the grant of an Employer Nomination (Residence) (Class BW) visa must be made before 1 July 2012.

The effect of the amendment is to close the Subclass 856 (Employer Nomination Scheme) and Subclass 857 (Regional Sponsored Migration Scheme) visas to any further primary applicants from 1 July 2012. The subclass 856 and 857 visas are replaced by the new Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visas, to be inserted by item [85].

Item [52] - Schedule 1, after item 1114A

This item inserts new Items 1114B and 1114C in Part 1 of Schedule 1 to the Regulations.

Item 1114B - Employer Nomination (Permanent) (Class EN)

New Item 1114B prescribes the requirements for making a valid application for an Employer Nomination (Permanent) (Class EN) visa.

Subitem 1114B(1) prescribes the form to be used to apply for an Employer Nomination (Permanent) (Class EN) visa.

Subitem 1114B(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1114B(3) prescribes other matters relating to a visa application, including that the application must be made as an internet application, that an applicant may be in or outside of Australia (but not in immigration clearance), that an applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and that an application by a person claiming to be a member of the family unit of another person who is also an applicant may be made at the same time as, and combined with, the application by that person.

Subitem 1114B(3) also requires that an applicant seeking to satisfy the primary criteria must declare in the application that the position to which the application relates is a position nominated under regulation 5.19 (Approval of nominated positions (employer nomination)), or is nominated in accordance with a labour agreement that is in effect by an employer that is a party to that labour agreement.

Subitem 1114B(4) prescribes Subclass 186 (Employer Nomination Scheme) as a subclass of Employer Nomination (Permanent) (Class EN).

Item 1114C - Regional Employer Nomination (Permanent) (Class RN)

New Item 1114C prescribes the requirements for making a valid application for a Regional Employer Nomination (Permanent) (Class RN) visa.

Subitem 1114C(1) prescribes the form to be used to apply for a Regional Employer Nomination (Permanent) (Class RN) visa.

Subitem 1114C(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1114C(3) prescribes other matters relating to a visa application, including that the application must be made as an internet application, that an applicant may be in or outside of Australia (but not in immigration clearance), that an applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and that an application by a person claiming to be a member of the family unit of another person who is also an applicant may be made at the same time as, and combined with, the application by that person.

Subitem 1114C(3) also requires that an applicant seeking to satisfy the primary criteria must declare in the application that the position to which the application relates is a position nominated under regulation 5.19 (Approval of nominated position (employer nomination)), or is nominated in accordance with a labour agreement that is in effect by an employer that is a party to that labour agreement.

Subitem 1114C(4) prescribes Subclass 187 (Regional Sponsored Migration Scheme) as a subclass of Regional Employer Nomination (Permanent) (Class RN).

Item [53] - Schedule 1, item 1120

This item omits Item 1120 in Part 1 of Schedule 1 to the Principal Regulations.

Item 1120 prescribes the requirements to make a valid application for an Independent Migration (Class AT) visa. Applications for this visa must have been made before 1 July 1999.

The amendment repeals visa Class AT.

Item [54] – Schedule 1, before paragraph 1121(3)(a)

This item inserts a new paragraph 1121(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1121(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for the grant of a Labour Agreement (Migrant) (Class AU) visa must be made before 1 July 2012.

The effect of the amendment is to close the Subclass 120 (Labour Agreement) visa to any further primary applicants from 1 July 2012. The Subclass 120 (Labour Agreement) visa is replaced by the new Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visas, inserted by item [85] of this Schedule.

Item [55] – Schedule 1, before paragraph 1121A(3)(a)

This item inserts a new paragraph 1121A(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1121A(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for the grant of a Labour Agreement (Residence) (Class BV) visa must be made before 1 July 2012.

The effect of the amendment is to close the Subclass 855 (Labour Agreement) visa to any further primary applicants from 1 July 2012. The Subclass 855 (Labour Agreement) visa is replaced by the new Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme) visas, inserted by item [85] of this Schedule.

Item [56] - Schedule 1, items 1128AA, 1128A, 1128B, 1128BA, 1128C, 1128CA, 1128D and 1134

This item omits Items 1128AA, 1128A, 1128B, 1128BA, 1128C, 1128CA, 1128D and 1134 in Part 1 of Schedule 1 to the Principal Regulations.

Item 1128AA prescribes the requirements to make a valid application for a Skill Matching (Migrant) (Class BR) visa. Applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 September 2007.

Item 1128A prescribes the requirements to make a valid application for a Skilled – Australian Linked (Migrant) (Class AJ) visa. Applications for this visa must have been made before 1 July 1999.

Item 1128B prescribes the requirements to make a valid application for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa. Applications by a person seeking to satisfy the primary criteria for Subclass 138 (Skilled – Australian-sponsored) must have been made before 1 September 2007. Applications by a person seeking to satisfy the criteria for a Subclass 139 (Skilled – Designated Area-sponsored) visa must have been made before 1 July 2006.

Item 1128BA prescribes the requirements to make a valid application for a Skilled – Australian-sponsored Overseas Student (Residence) (Class DE) visa. Applications by a person seeking to satisfy the primary criteria must have been made before 1 September 2007.

Item 1128C prescribes the requirements to make a valid application for a Skilled – Independent (Migrant) (Class BN) visa. Applications by a person seeking to satisfy the primary criteria must have been made before 1 September 2007.

Item 1128CA prescribes the requirements to make a valid application for a Skilled – Independent Overseas Student (Residence) (Class DD) visa. Applications by a person seeking to satisfy the primary criteria must have been made before 1 September 2007.

Item 1128D prescribes the requirements to make a valid application for a Skilled – New Zealand Citizen (Residence) (Class DB) visa. Applications by a person seeking to satisfy the primary criteria must have been made before 1 September 2007.

Item 1134 prescribes the requirements to make a valid application for a Skilled – Designated Area-sponsored (Residence) (Class CC) visa. Applications by a person seeking to satisfy the primary criteria must have been made before 1 September 2007.

The purpose of this amendment is to repeal the Schedule 1 provisions for General Skilled Migration visas that are no longer open to primary applications.

Item [57] - Schedule 1, before paragraph 1135(3)(a)

This item inserts a new paragraph 1135(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1135(3)(aa) provides that a Skilled (Migrant) (Class VE) application by a person seeking to satisfy the primary criteria must be made before 1 July 2012.

The purpose of this amendment is to close the Skilled (Migrant) (Class VE) to any further primary applications from 1 July 2012. Class VE is replaced by new Skilled – Independent (Permanent) (Class SI), inserted by item [64] of this Schedule.

Item [58] - Schedule 1, sub-subparagraph 1136(2)(a)(i)(E)

This item substitutes sub-subparagraph 1136(2)(a)(i)(E) and inserts a new sub-subparagraph 1136(2)(a)(i)(F) in Part 1 of Schedule 1 to the Principal Regulations.

Subparagraph 1136(2)(a)(i) prescribes that certain visa holders applying for a Skilled (Residence) (Class VB) visa are liable to pay a lower visa application charge.

The amendment inserts the new Skilled – Regional Sponsored (Provisional) (Class SP) visa and a Bridging A or Bridging B visa, granted on the basis of a valid application for a Skilled – Regional Sponsored (Provisional) (Class SP) visa, in subparagraph 1136(2)(a)(i).

Item [59] - Schedule 1, before paragraph 1136(3)(a)

This item inserts a new paragraph 1136(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

New paragraph 1136(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for the grant of a Subclass 885 (Skilled – Independent) or a Subclass 886 (Skilled – Sponsored) visa must be made before 1 January 2013.

The purpose of this amendment is to close the Subclass 885 (Skilled – Independent) and Subclass 886 (Skilled – Sponsored) visa to any further primary applicants from 1 January 2013. Subclass 885 (Skilled – Independent) is replaced by the new Skilled – Independent (Permanent) (Class SI) visa and Subclass 886 (Skilled – Sponsored) is replaced by the new Skilled – Nominated (Permanent) (Class SN) visa, inserted by item [64] of this Schedule.

Item [60] - Schedule 1, paragraph 1136(3)(a)

This item amends paragraph 1136(3)(a) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1136(3)(a) provides that an application for a Skilled (Residence) (Class VB) visa must be made as an internet application; or by posting or delivering the application by a courier service to an address specified by the Minister.

The amendment prescribes that these application methods relate only to an application made before 1 January 2013.

This amendment is consequential to amendments relating to applications made after 1 January 2013 made by item [61] of this Schedule.

Item [61] - Schedule 1, after paragraph 1136(3)(a)

This item inserts a new paragraph 1136(3)(ab) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1136(3)(ab) prescribe that applications for a Skilled (Residence) (Class VB) visa made on or after 1 January 2013 must be made as an internet application.

The purpose of the amendment is to align the application method for the Skilled (Residence) (Class VB) visa with that of the new General Skilled Migration visas inserted by items [64] and [76] of this Schedule.

Item [62] - Schedule 1, subparagraph 1136(7)(a)(v)

This item substitutes subparagraph 1136(7)(a)(v) and inserts a new subparagraph 1136(7)(a)(vi) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1136(7)(a) provides that applicants for a Skilled (Residence) (Class VB) seeking to satisfy the requirements in this subitem must hold one of the listed skilled visas at the time of application.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) visa and a Bridging A or Bridging B visa, granted on the basis of a valid application for a Skilled – Regional Sponsored (Provisional) (Class SP) visa, in the list of prescribed visas for paragraph 1136(7)(a).

The purpose of the amendment is to create a pathway to a permanent skilled visa for holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [63] - Schedule 1, after subparagraph 1136(7)(b)(iv)

This item inserts a new subparagraph 1136(7)(b)(v) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1136(7)(b) provides that applicants for a Skilled (Residence) (Class VB) visa seeking to satisfy the requirements in this subitem must have held one of a list of prescribed skilled visas for at least two years before the time of application.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) visa in the list of prescribed visas for paragraph 1136(7)(b).

The purpose of the amendment is to require holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa to hold a provisional skilled visa for at least two years before being eligible to apply for a Skilled (Residence) (Class VB) visa. This aligns with the requirements for other provisional skilled visa holders.

Item [64] - Schedule 1, after item 1136

This item inserts new Items 1137 and 1138 in Part 1 of Schedule 1 to the Regulations.

New Item 1137 prescribes the requirements for making a valid application for a Skilled – Independent (Permanent) (Class SI) visa.

Subitem 1137(1) prescribes the form to be used to apply for a Class SI visa.

Subitem 1137(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1137(3) prescribes other matters, including that an application must be made as an internet application, and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and an application by a person claiming to be a member of the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1137(4) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 189 (Skilled – Independent) visa must have been invited in writing, by the Minister, to apply for that visa and must apply within the period of time stated in the invitation. An applicant must not have reached 50 years of age at the time of the invitation to apply for the visa. An applicant is required to nominate a skilled occupation that is specified as a skilled occupation at the time of the invitation and is the same skilled occupation identified in the invitation. The applicant is also required to declare that his or her skills have been assessed by a specified body as suitable for the nominated skilled occupation. Prospective applicants for a Skilled – Independent (Permanent) (Class SI) visa will lodge an expression of interest for the visa electronically. The Minister will establish objective skills standards that must be met before an invitation is issued. Invitations for a Subclass 189 (Skilled – Independent) visa will be issued periodically to applicants based on their relative ranking against these standards when compared to other individuals who have expressed an interest in this visa subclass.

Subitem 1137(5) prescribes that Subclass 189 (Skilled – Independent) is a subclass of the Class SI visa.

New Item 1138 prescribes the requirements for making a valid application for a Skilled – Nominated (Permanent) (Class SN) visa.

Subitem 1138(1) prescribes the form to be used to apply for a Class SN visa.

Subitem 1138(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1138(3) prescribes other matters, including that an application must be made as an internet application, and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and an application by a person claiming to be a member of the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1138(4) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 190 (Skilled – Nominated) visa must have been invited in writing, by the Minister, to apply for that visa and must apply within the period of time stated in the invitation. An applicant must not have reached 50 years of age at the time of the invitation to apply for the visa. An applicant is required to nominate a skilled occupation that is specified as a skilled occupation at the time of the invitation and is the same skilled occupation identified in the invitation. The applicant is also required to declare that his or her skills have been assessed by a specified body as suitable for the nominated skilled occupation. An applicant seeking to satisfy the primary criteria must also be nominated by a State or Territory government agency.

Prospective applicants will lodge an expression of interest for the visa electronically. The Minister will establish objective skills standards that must be met before an invitation is issued. Individuals who have expressed interest in this visa subclass who meet those standards and are nominated by a State or Territory government agency would then be invited to apply for a Subclass 190 visa.

Subitem 1138(5) prescribes that Subclass 190 (Skilled – Nominated) is a subclass of the Class SN visa.

Item [65] - Schedule 1, after item 1202A

This item inserts a new Item 1202B in Part 2 of Schedule 1 to the Principal Regulations. New Item 1202B prescribes the requirements for making a valid application for a Business Skills (Provisional) (Class EB) visa.

Subitem 1202B(1) prescribes the form to be used to apply for a Class EB visa.

Subitem 1202B(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1202B(3) prescribes other matters, including that an application must be made as an internet application, and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and an application by a person claiming to be a member of the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1202B(4) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream must have been invited in writing by the Minister to apply for that visa, must apply within the period of time stated in the invitation and must be nominated by a State or Territory government agency.

Prospective applicants would lodge an expression of interest for the visa stream electronically. The Minister will establish objective skills standards that must be met before an invitation is issued, and applicants who meet those standards and are nominated by a State or Territory government agency would then be invited to apply for a Subclass 188 visa in the Business Innovation stream.

Subitem 1202B(5) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 188 visa in the Extension stream must have held a Subclass 188 visa for at least three years, must not have held more than one Subclass 188 visa and must be nominated by a State or Territory government agency.

Subitem 1202B(6) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 188 visa in the Investor stream must have been invited in writing by the Minister to apply for that visa, must apply within the period of time stated in the invitation and must be nominated by a State or Territory government agency. Prospective applicants will lodge an expression of interest for the visa stream electronically. The Minister will establish objective skills standards that must be met before an invitation is issued, and applicants who meet those standards and are nominated by a State or Territory government agency would then be invited to apply for a Subclass 188 visa in the Investor stream.

Subitem 1202B(7) prescribes that Subclass 188 (Business Innovation and Investment (Provisional)) is a subclass of the Class EB visa.

Item [66] - Schedule 1, before paragraph 1202A(3)(a)

This item inserts new paragraph 1202A(3)(aa) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraph 1202A(3)(aa) provides that an application by a person seeking to satisfy the primary criteria must be made before 1 July 2012.

The effect of this amendment is to prevent further applications being made on and after 1 July 2012 for a Business Skills (Provisional) (Class UR) visa by persons seeking to satisfy the primary criteria for a Subclass 160, 161, 162, 163, 164 or 165 visa. These subclasses of visa are replaced by the new Subclass 188 (Business Innovation and Investment (Provisional)) visa, inserted by item [85] of this Schedule.

Item [67] - Schedule 1, item 1212A

This item omits item 1212A in Part 2 of Schedule 1 to the Principal Regulations.

Item 1212A prescribes the requirements to make a valid application for a Graduate – Skilled (Temporary) (Class UQ) visa. Applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 July 2007.

The amendment repeals the Class UQ visa.

Item [68] - Schedule 1, after sub-subparagraph 1214C(3)(g)(i)(C)

This item inserts a new sub-subparagraph 1214C(3)(g)(i)(D) in Part 2 of Schedule 1 to the Regulations.

Subparagraph 1214C(3)(g)(i) provides that an applicant for a Partner (Temporary) (Class UK) visa who holds a prescribed provisional skilled visa, must have held that visa for at least two years before the time of application.

The amendment extends this requirement to holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [69] - Schedule 1, sub-subparagraph 1214C(3)(g)(ii)(C)

This item replaces the word ‘visa;’ with the words ‘visa; or’ in sub-subparagraph 1214C(3)(g)(ii)(C) in Part 2 of Schedule 1 to the Principal Regulations.

This is a technical amendment to facilitate the insertion of a new sub-subparagraph 1214C(3)(g)(ii)(D) by item [70].

Item [70] - Schedule 1, after sub-subparagraph 1214C(3)(g)(ii)(C)

This item inserts a new sub-subparagraph 1214C(3)(g)(ii)(D) in Part 2 of Schedule 1 to the Regulations.

Subparagraph 1214C(3)(g)(ii) provides that an applicant for a Partner (Temporary) (Class UK) visa who last held a substantive visa that was a prescribed provisional skilled visa, must have held that visa for at least two years before the time of application.

The amendment extends this requirement to holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [71] - Schedule 1, items 1218A and 1226

This item omits Items 1218A and 1226 in Part 2 of Schedule 1 to the Principal Regulations.

Item 1218A prescribes the requirements to make a valid application for a Skilled – Independent Regional (Provisional) (Class UX) visa. Applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 September 2007.

Item 1226 prescribes the requirements to make a valid application for a Skilled – Designated Area-sponsored (Provisional) (Class UZ) visa. Applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 September 2007.

The amendment repeals Class UX and UZ.

Item [72] - Schedule 1, before paragraph 1228(3)(a)

This item inserts a new paragraph 1228(3)(aa) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1228(3)(aa) provides that an application by a person seeking to satisfy the primary criteria for a Subclass 475 (Skilled – Regional Sponsored) visa must be made before 1 July 2012.

The purpose of this amendment is to close Subclass 475 (Skilled – Regional Sponsored) to any further primary applications from 1 July 2012. Subclass 475 is replaced by new Skilled – Regional Sponsored (Provisional) (Class SP), inserted by item [76].

Item [73] - Schedule 1, before paragraph 1229(3)(a)

This item inserts a new paragraph 1229(3)(aaa) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1229(3)(aaa) provides that an application by a person seeking to satisfy the primary criteria for a Subclass 487 (Skilled – Regional Sponsored) visa must be made before 1 January 2013.

The purpose of this amendment is to close Subclass 487 (Skilled – Regional Sponsored) to any further primary applications from 1 January 2013. Subclass 487 is replaced by the new Skilled – Regional Sponsored (Provisional) (Class SP) visa, inserted by item [76].

Item [74] - Schedule 1, paragraph 1229(3)(e)

This item amends paragraph 1229(3)(e) of Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1229(3)(e) provides that applicants for the Skilled (Provisional) (Class VC) visa must meet the requirements in subitems 1229(4), (5), (6), (7), (8) or (9).

The amendments remove the reference to subitems 1229(8) and (9) and are consequential to amendments made to Item 1229 by item [75].

Item [75] - Schedule 1, subitems 1229(8) and (9)

This item omits subitems 1229(8) and (9) in Part 2 of Schedule 1 to the Principal Regulations.

Subitem 1229(8) prescribes the requirements a person who holds a prescribed provisional skilled visa must meet to apply for a Skilled (Provisional) (Class VC) visa. The purpose of the omission is to close the Skilled (Provisional) (Class VC) visa to applicants who hold another provisional skilled visa

Subitem 1229(9) prescribes the requirements a person who claims to be a member of the family unit of an applicant who holds a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria must meet to apply for a Skilled (Provisional) (Class VC) visa. The purpose of the omission is to close the Skilled (Provisional) (Class VC) visa to applicants who seek to satisfy the secondary criteria and have lodged their application after the primary applicant has been granted a Skilled (Provisional) (Class VC) visa.

From 1 July 2012, applicants who would have applied for a Skilled (Provisional) (Class VC) visa seeking to satisfy the requirements of 1229(8) or (9) will be eligible to apply for the new Skilled – Regional Sponsored (Provisional) (Class SP), inserted by item [76].

Item [76] - Schedule 1, after item 1229

This item inserts a new Item 1230 in Part 2 of Schedule 1 to the Principal Regulations.

New Item 1230 prescribes the requirements for making a valid application for a Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Subitem 1230(1) prescribes the form to be used to apply for the Class SP visa.

Subitem 1230(2) prescribes the visa application charge, which is payable in two instalments.

Subitem 1230(3) prescribes other matters, including that an application must be made as an internet application, and that an applicant may be in or outside of Australia (but not in immigration clearance). An applicant who is in Australia is required to hold a substantive visa or a Bridging A, B or C visa, and an application by a person claiming to be a member of the family unit may be made at the same time as, and combined with, the application by that person.

Subitem 1230(4) prescribes that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 489 (Skilled – Regional (Provisional)) visa in the First Provisional Visa stream must have been invited in writing, by the Minister, to apply for that visa and must apply within the period of time stated in the invitation. An applicant is required to be under 50 years of age at the time of invitation and nominate a skilled occupation that is specified as a skilled occupation at the time of the invitation and is the same skilled occupation identified in the invitation.

The applicant is required to declare that his or her skills have been assessed by a specified body as suitable for the nominated skilled occupation. An applicant seeking to satisfy the primary criteria must also be nominated by a State or Territory government agency or make a declaration that they are sponsored by a family member who is an eligible Australian citizen, Australian permanent resident or eligible New Zealand citizen.

Prospective applicants will lodge an expression of interest for the visa electronically. The Minister will establish objective skills standards that must be met before an invitation is issued. Individuals who have expressed interest in this visa stream who meet those standards and are nominated by a State or Territory government agency, or sponsored by an eligible family member, would then be invited to apply for a Subclass 489 visa in the First Provisional Visa stream.

New subitem 1230(5) provides that an applicant seeking to satisfy the primary criteria for the grant of a Subclass 489 (Skilled – Regional (Provisional)) visa in the Second Provisional Visa stream must hold one of a list of prescribe provisional skilled visas at the time of application. The applicant must have held the relevant visa on the basis of satisfying the primary criteria or being the spouse or de facto partner of the person who satisfied the primary criteria for at least two years before the date of application.

Subitem 1230(6) prescribes that Subclass 489 (Skilled – Regional (Provisional)) is a subclass of the Class SP visa.

Item [77] - Schedule 1, subitem 1301(1)

This item amends subitem 1301(1) in Part 2 of Schedule 1 to the Principal Regulations.

Subitem 1301(1) specifies the approved forms that may be used to make a valid application for a Bridging A (Class WA) visa.

The amendment includes the approved forms for the new visas inserted by Schedule 1 of this Regulation as application forms for a Bridging A (Class WA) visa.

Item [78] - Schedule 1, subclause 1303(1)

This item amends subitem 1303(1) in Part 2 of Schedule 1 to the Principal Regulations.

Subclause 1303(1) specifies the approved forms that may be used to make a valid application for a Bridging C (Class WC) visa.

The amendment includes the approved forms for the new visas inserted by Schedule 1 of this Regulation as application forms for a Bridging C (Class WC) visa.

Item [79] - Schedule 2, subclause 010.611(3B)

This item substitutes subclause 010.611(3B) in Part 010 of Schedule 2 to the Principal Regulations.

Subclause 010.611(3B) provides that nil conditions apply to a Subclass 010 (Bridging A) visa granted on the basis of a valid application for a Skilled — Independent Overseas Student (Class DD) visa; a Skilled — Australian-sponsored Overseas Student (Class DE) visa; or a Skilled (Residence) (Class VB) visa in prescribed circumstances.

New subclause 010.611(3B) continues to apply to a Subclass 010 (Bridging A) visa granted on the basis of certain applications for a Skilled (Residence) (Class VB) visa, removes references to visas that are repealed by this Regulation and extends the operation of the subclause to the visas inserted by Schedule 1 of this Regulation:

- a Business Skills – Business Talent (Permanent) (Class EA) visa;
- a Business Skills (Provisional) (Class EB) visa;
- a Business Skills (Permanent) (Class EC) visa;
- an Employer Nomination (Permanent) (Class EN) visa;
- a Regional Employer Nomination (Permanent) (Class RN) visa;
- a Skilled – Independent (Permanent) (Class SI) visa;
- a Skilled – Nominated (Permanent) (Class SN) visa; or
- a Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [80] - Schedule 2, subclause 020.611(4)

This item substitutes subclause 020.611(4) in Part 020 of Schedule 2 to the Principal Regulations.

Subclause 020.611(4) provides that nil conditions apply to a Subclass 020 (Bridging B) visa granted on the basis of a valid application for a Skilled — Independent Overseas Student (Class DD) visa; a Skilled — Australian-sponsored Overseas Student (Class DE) visa; or a Skilled (Residence) (Class VB) visa in prescribed circumstances.

New subclause 020.611(4) continues to apply to a Subclass 020 (Bridging B) visa granted on the basis of certain applications for a Skilled (Residence) (Class VB) visa; removes

references to visas that are repealed by this Regulation and extends the operation of the subclause to the list of skilled visas inserted by item [79] above.

Item [81] - Schedule 2, clause 030.613

This item substitutes clauses 030.613 and 030.614 in Part 030 of Schedule 2 to the Principal Regulations.

New clause 030.613 provides that nil conditions apply to a Subclass 030 (Bridging C) visa granted on the basis of a valid application for a visa inserted by this Regulation.

New clause 030.614 replicates current clause 030.613 and provides that where clauses 030.611, 030.612 or the new 030.613 do not apply, condition 8101 will be imposed on a Subclass 030 (Bridging C) visa.

Item [82] - Schedule 2, Parts 105, 106 and 126

This item omits Parts 105, 106 and 126 of Schedule 2 to the Principal Regulations.

Part 105 prescribes the criteria for the grant of a Subclass 105 (Skilled – Australian Linked) visa. Part 106 prescribes the criteria for the grant of a Subclass 106 (Regional Linked) visa. Applications for these visas must have been made before 1 July 1999.

Part 126 prescribes the criteria for the grant of a Subclass 126 (Independent) visa. Applications for this visa must have been made before 1 July 1999.

This amendment is consequential to the repeal of the related Schedule 1 provisions in items [53] and [56] above.

Item [83] - Schedule 2, Part 132

This item substitutes Part 132 of Schedule 2 to the Principal Regulations.

The Subclass 132 visa is a subclass of Business Skills – Business Talent (Permanent) (Class EA). The Subclass 132 visa currently provides for the direct permanent entry of applicants who have had an overall successful business career with a business or businesses of high value. In 2011 a comprehensive review of the Business Skills visa program was conducted which included public consultation. A reform arising from the review was the creation of a visa which facilitates the entry of entrepreneurs who have sourced venture capital funding in Australia for the early-phase start-up of a business, the commercialisation of a product, the development of a business or the expansion of a business.

This item implements this reform by including a new stream within the Subclass 132 (Business Talent) Visa which provides for the entry of entrepreneurs who have sourced venture capital funding in Australia. Under the regulation, there will be two streams in the Subclass 132 visa.

Applicants seeking to satisfy the primary criteria for Subclass 132 are required to satisfy the common criteria and also the criteria for the stream in which they have applied. The first stream is the Significant Business History stream. This stream has similar requirements to

the current Subclass 132 (Business Talent) visa. This stream applies to applicants who have had a successful business career and are proposing to establish or participate in a business that the sponsoring State or Territory has determined is of exceptional economic benefit to the State or Territory.

The second stream is the Venture Capital Entrepreneur stream. This stream applies to applicants who have entered into a contract with an Australian company to receive venture capital funding of at least AUD 1 million for the early-phase start-up of a business, the commercialisation of a product, the development of a business or the expansion of a business.

The eligibility criteria require applicants seeking to satisfy the primary criteria for a Subclass 132 visa in the Significant Business History stream or the Venture Capital Entrepreneur stream to be nominated by a State or Territory government agency.

Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Part 132 (Subclass 132) are:

Division 132.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 132.

Division 132.2 – Primary criteria

This Division will set out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 132 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Significant Business History stream: subdivisions 132.21 and 132.22
- Venture Capital Entrepreneur stream: subdivisions 132.21 and 132.23

- Subdivision 132.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria relate to the business conduct of the applicant and their spouse or de facto partner and require that the nominating State or Territory government agency has not withdrawn their nomination. These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 132.22 – Criteria for Significant Business History stream

These criteria require that the applicant has been invited to apply for the visa. These criteria also relate to the age of the applicant, the overall success of their business career, as well as requirements relating to ownership interest in a qualifying business, business turnover, and the value of business and personal assets. The applicant is also be required to genuinely have a realistic commitment to establish and participate in a qualifying business in Australia, and to maintain their ownership of the business. The applicant is further required to genuinely have a realistic commitment to maintain direct and continuous involvement in the day-to-day

management of the business and in the making of decisions that affect the overall direction and performance of the business, in a manner that benefits the Australian economy.

- Subdivision 132.23 – Criteria for Venture Capital Entrepreneur stream

These criteria require that the applicant has been invited to apply for the visa. These criteria also require that the applicant has entered into a legally enforceable agreement with an Australian company to receive venture capital funding of at least AUD 1 million for the early-phase start-up of a business, the commercialisation of a product, the development of a business or the expansion of a business. These criteria further provide that the Australian company who has entered into the agreement is a member of an industry association or similar body specified by the Minister in an instrument in writing, and holds a category of membership specified by the Minister in an instrument in writing. The purpose of this criterion is to provide flexibility to respond to changes in relevant industry associations or similar bodies.

These criteria also require the applicant to have sufficient assets to settle in Australia, and to genuinely have a realistic commitment to establish and participate in a qualifying business in Australia, and to maintain their ownership of the business. The applicant is further required to genuinely have a realistic commitment to maintain direct and continuous involvement in the day-to-day management of the business and in the making of decisions that affect the overall direction and performance of the business, in a manner that benefits the Australian economy.

Division 132.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 132 visa on the basis of a close family relationship with a person who satisfies the primary criteria. Secondary applicants are required to have made a combined application with the primary applicant, meet certain public interest criteria and special return criteria, and hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 132.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 132.5 – When visa is in effect

This Division provides that the Subclass 132 visa is a permanent visa permitting the holder to travel to, enter and remain in Australia for five years from the date of grant.

Division 132.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515,

which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed on any Subclass 132 visa.

Item [84] - Schedule 2, Parts 134, 135, 136, 137, 138 and 139

This item omits Parts 134, 135, 136, 137, 138 and 139 of Schedule 2 to the Principal Regulations.

Part 134 prescribes the criteria for the grant of a Subclass 134 (Skill Matching) visa. Applications for this visa must have been made before 1 September 2007.

Part 135 prescribes the criteria for the grant of a Subclass 135 (State/Territory-nominated Independent) visa. Applications for this visa must have been made before 1 July 1999.

Part 136 prescribes the criteria for the grant of a Subclass 136 (Skilled – Independent) visa. Applications for this visa must have been made before 1 September 2007.

Part 137 prescribes the criteria for the grant of a Subclass 137 (Skilled – State/Territory-nominated Independent) visa. Applications for this visa must have been made before 1 September 2007.

Part 138 prescribes the criteria for the grant of a Subclass 138 (Skilled – Australian-sponsored) visa. Applications for this visa must have been made before 1 September 2007.

Part 139 prescribes the criteria for the grant of a Subclass 139 (Skilled – Designated Area-sponsored) visa. Applications for this visa must have been made before 1 September 2007.

This amendment is consequential to the repeal of the related Schedule 1 provisions in items [53] and [56] above.

Item [85] - Schedule 2, after Part 176

This item inserts five new Parts in Part 1 of Schedule 2 to the Principal Regulations:

- Part 186 - Subclass 186 (Employer Nomination Scheme);
- Part 187 - Subclass 187 (Regional Sponsored Migration Scheme);
- Part 188 - Subclass 188 (Business Innovation and Investment (Provisional));
- Part 189 - Subclass 189 (Skilled – Independent); and
- Part 190 - Subclass 190 (Skilled – Nominated).

Details of the new Parts are as follows:

Part 186 – Subclass 186 (Employer Nomination Scheme)

Part 186 sets out the criteria and other provisions in relation to a Subclass 186 (Employer Nomination Scheme) visa. The new Subclass 186 visa is a subclass of the new Employer Nomination (Permanent) (Class EN) visa, inserted as new Item 1114B in Part 1 of Schedule 1 to the Principal Regulations by item [52] of this Regulation.

Subclass 186 visa replaces the Subclass 120 (Labour Agreement), Subclass 121 (Employer Nomination Scheme), Subclass 856 (Employer Nomination Scheme) and Subclass 885 (Labour Agreement) visas from 1 July 2012. Amendments made by items [50], [51], [54] and [55] of this Regulation to prevent further applications by persons seeking to satisfy the primary criteria for visas of these subclasses on or after 1 July 2012.

Applicants seeking to satisfy the primary criteria for a Subclass 186 visa are required to satisfy the common criteria and also the criteria for the stream in which they have applied. There are three streams in Subclass 186, the Temporary Residence Transition stream, the Direct Entry stream, and the Agreement stream. Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Subclass 186 (Employer Nomination Scheme) are as follows:

Division 186.1 – Interpretation

This Division sets out the meaning of certain terms used specifically in Subclass 186.

Division 186.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 186 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Temporary Residence Transition stream: Subdivisions 186.21 and 186.22
- Direct Entry stream: Subdivisions 186.21 and 186.23
- Agreement stream: Subdivisions 186.21 and 186.24

- Subdivision 186.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require the applicant to hold a licence, registration or membership of a particular body if this was necessary to work in the applicant's occupation in the relevant State or Territory. These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 186.22 – Criteria for Temporary Residence Transition stream

These criteria require the applicant to be aged less than 50 years at the time of application, unless the applicant was in a class of persons specified by the Minister in an instrument. The criteria also require the applicant to have vocational English, unless the applicant was in a class of persons specified by the Minister in an instrument.

The criteria further require that a nomination of the position the applicant intends to be employed in, has been approved under subregulation 5.19(3) and that the applicant is the relevant holder of a Subclass 457 (Business (Long Stay)) visa identified in the application for approval of the nomination. New subregulation 5.19(3) is inserted in Part 5 of the Principal

Regulations by item [41] of this Schedule. The applicant and members of the applicant's family unit are also required to satisfy public interest criterion 4007.

- Subdivision 186.23 – Criteria for Direct Entry stream

These criteria require the applicant to be aged less than 50 years at the time of application, unless the applicant was in a class of persons specified by the Minister in an instrument. The criteria also require the applicant to have competent English, unless the applicant was in a class of persons specified by the Minister in an instrument.

The criteria further require that a nomination of the position the applicant intends to be employed in, has been approved under paragraph 5.19(4)(h)(i), or under subregulation 5.19(2) as it was before 1 July 2012. Subregulation 5.19(4) is inserted in Part 5 of the Principal Regulations by item [41] of this Schedule. The applicant's skills must have been assessed by a specified assessing authority as suitable for the applicant's occupation, unless the applicant is in a class of persons specified by the Minister in an instrument. The applicant and members of the applicant's family unit are required to satisfy public interest criterion 4005.

- Subdivision 186.24 – Criteria for Agreement stream

These criteria require the applicant to be nominated by an employer in accordance with a labour agreement that is in effect and to which the employer is a party. The applicant must have qualifications, experience and other attributes that are suitable for the position, and the requirements of the labour agreement must be met. The terms and conditions applicable to the position must be no less favourable than those provided to an Australian citizen or permanent resident in a similar position. The applicant and members of the applicant's family unit must satisfy public interest criterion 4005.

Division 186.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 186 visa on the basis of a close family relationship with a person who satisfies the primary criteria. Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 186.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 186.5 – When visa is in effect

This Division provides that the visa is a permanent visa, permitting the holder to travel, enter and remain in Australia for five years from the date it is granted.

Division 186.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed on the visa.

Part 187 - Subclass 187 (Regional Sponsored Migration Scheme)

Part 187 sets out the criteria and other provisions in relation to a Subclass 187 (Regional Sponsored Migration Scheme) visa. New Subclass 187 is a subclass of the new Regional Employer Nomination (Permanent) (Class RN) visa inserted as new Item 1114C in Part 1 of Schedule 1 to the Principal Regulations by item [52] of this Regulation.

The new Subclass 187 visa replaces the Subclass 119 (Regional Sponsored Migration Scheme) and Subclass 857 (Regional Sponsored Migration Scheme) visas from 1 July 2012. Amendments made by items [50] and [51] of this Regulation prevent further applications by persons seeking to satisfy the primary criteria for visas of these subclasses on or after 1 July 2012.

Applicants seeking to satisfy the primary criteria for a Subclass 187 visa are required to satisfy the common criteria and also the criteria for the stream in which they have applied. There are three streams in Subclass 187, the Temporary Residence Transition stream, the Direct Entry stream, and the Agreement stream. Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Subclass 187 (Regional Sponsored Migration) are as follows:

Division 187.1 – Interpretation

This Division would set out the meaning of certain terms used specifically in Subclass 187.

Division 187.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 187 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Temporary Residence Transition stream: Subdivisions 187.21 and 187.22
- Direct Entry stream: Subdivisions 187.21 and 187.23
- Agreement stream: Subdivisions 187.21 and 187.24

- Subdivision 187.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require the applicant to hold a licence, registration or membership of a particular body if this was necessary to work in the applicant's occupation in the relevant State or Territory. These criteria also require the primary applicant and members of the

primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 187.22 – Criteria for Temporary Residence Transition stream

These criteria require the applicant to be aged less than 50 years at the time of application, unless the applicant was in a class of persons specified by the Minister in an instrument. The criteria also require the applicant to have vocational English, unless the applicant was in a class of persons specified by the Minister in an instrument.

The criteria further require that a nomination of the position the applicant intends to be employed in, has been approved under subregulation 5.19(3) and that the applicant is the relevant holder of a Subclass 457 (Business (Long Stay)) visa identified in the application for approval of the nomination. New subregulation 5.19(3) is inserted in Part 5 of the Principal Regulations by item [41] of this Regulation. The applicant and members of the applicant's family unit are required to satisfy public interest criterion 4007.

- Subdivision 187.23 – Criteria for Direct Entry stream

These criteria require the applicant to be aged less than 50 years at the time of application, unless the applicant was in a class of persons specified by the Minister in an instrument. The criteria also require the applicant to have competent English, unless the applicant was in a class of persons specified by the Minister in an instrument.

The criteria further require that a nomination of the position the applicant intends to be employed in, has been approved under subregulation 5.19(4)(h)(ii) on the basis that the application met the requirements for a position located in regional Australia, or under subregulation 5.19(4) as it was before 1 July 2012. New subregulation 5.19(4) is inserted in Part 5 of the Principal Regulations by item [41] of this Schedule. To establish they have the skills necessary for the nominated position, the applicant must be within a class of persons specified by the Minister in an instrument; or if the occupation is specified in an instrument and the applicant did not obtain the qualifications for that occupation in Australia, their skills must have been assessed as suitable for that occupation by an assessing authority. If neither of these instruments relate to the applicant, then the applicant must have the qualifications listed in ANZSCO as being necessary to perform the applicant's occupation. The applicant and members of the applicant's family unit are required to satisfy public interest criterion 4005.

- Subdivision 187.24 – Criteria for Agreement stream

These criteria require the applicant to be nominated by an employer in accordance with a labour agreement that is in effect and to which the employer is a party. The applicant must have qualifications, experience and other attributes suitable for the position, and the requirements of the labour agreement must be met. The terms and conditions applicable to the position must be no less favourable than those provided to an Australian citizen or permanent resident in a similar position. The applicant and members of the applicant's family unit must satisfy public interest criterion 4005.

Division 187.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 187 visa on the basis of a close family relationship with a person who satisfies the primary criteria. Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 187.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 187.5 – When visa is in effect

This Division provides that the visa is a permanent visa, permitting the holder to travel, enter and remain in Australia for five years from the date it is granted.

Division 187.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed on the visa.

Part 188 – Subclass 188 (Business Innovation and Investment (Provisional))

The Subclass 188 visa is a subclass of the new Business Skills (Provisional) (Class EB) visa which is inserted in Schedule 1 to the Principal Regulations as new Item 1202B by item [65] of Schedule 1 to this Regulation.

Subclass 188 is a provisional visa that replaces the following subclasses from 1 July 2012:

- Subclass 160 - Business Owner (Provisional)
- Subclass 161 - Senior Executive (Provisional)
- Subclass 162 - Investor (Provisional)
- Subclass 163 - State/Territory Sponsored Business Owner (Provisional)
- Subclass 164 - State/Territory Sponsored Senior Executive (Provisional)
- Subclass 165 - State/Territory Sponsored Investor (Provisional)

Amendments made by this Regulation prevent further applications by persons seeking to satisfy the primary criteria for these visa subclasses on or after 1 July 2012.

The criteria for Subclass 188 require applicants seeking to satisfy the primary criteria to satisfy the common criteria and also the criteria for the stream in which they have applied.

There are three streams in Subclass 188, as follows:

- Business Innovation stream
- Investor stream
- Extension stream

The eligibility criteria require applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Business Innovation stream or the Investor stream to achieve a specified qualifying score on a points assessment under the new Schedule 7A (which would be inserted in the Principal Regulation by item [120] of Schedule 1) and be nominated by a State or Territory government agency. Applicants in these streams are required to meet minimum threshold requirements regarding business or investment activity.

The eligibility criteria require applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Extension stream to hold a Subclass 188 visa granted in the Business Innovation stream and be nominated by the State or Territory government agency.

Additionally, it is a requirement that the applicant held an ownership interest in one or more actively operating main businesses for at least two years immediately before the application was made.

Applicants who are members of the family unit of an applicant who satisfies the primary criteria need only satisfy the secondary criteria.

Details of the provisions of new Part 188 (Subclass 188) are:

Division 188.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 188.

Division 188.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 188 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Business Innovation stream: subdivisions 188.21 and 188.22
- Extension stream: subdivisions 188.21 and 188.23
- Investor stream: subdivisions 188.21 and 188.24

- Subdivision 188.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria relate to the business conduct of the applicant and their spouse or de facto partner and would require that the nominating State or Territory government agency has not withdrawn their nomination. These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 188.22 – Criteria for Business Innovation stream

These criteria relate to the age of the applicant, the overall success of their business career, as well as requirements relating to business turnover, and the value of business and personal assets. The applicant is required to genuinely have a realistic commitment to establish and participate in a qualifying business in Australia, and to maintain their ownership. They are required to genuinely have a realistic commitment to maintain direct and continuous involvement in the day to day management of the business and in the making of decisions that affect the overall direction and performance of the business.

The applicant is also required to receive the points test score on the business innovation and investment points test that is specified by the Minister in an instrument in writing and satisfy public interest criterion 4005, and other requirements as prescribed.

- Subdivision 188.23 – Criteria for Extension stream

These criteria require the applicant to have had an ownership interest in one or more actively operating main businesses in Australia for at least two years immediately before the application, and genuinely have a realistic commitment to maintain their ownership interests and maintain a direct and continuous involvement in the day to day management of the businesses and in making decisions that affect its direction and performance. The applicant is also required to satisfy public interest criterion 4007, and other requirements as prescribed.

- Subdivision 188.24 – Criteria for Investor stream

These criteria relate to the age of the applicant, the success of their business or investment activity, as well as requirements relating to years of business or investment experience and the value of business and personal assets. These criteria also require a designated investment of a minimum value be made, and that the applicant genuinely has a realistic intention to maintain business or investment activity in Australia and reside in the nominating State or Territory for at least two years.

The applicant is required to have received the points test score on the business innovation and investment points test that is specified by the Minister in an instrument in writing, and satisfy public interest criterion 4005, as well as other requirements as prescribed.

Division 188.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 188 visa on the basis of a close family relationship with a person who satisfies the primary criteria. Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 188.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 188.5 – When visa is in effect

This Division provides that if the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Business Innovation stream or the Investor stream, a Subclass 188 visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for four years from the date of grant.

If an applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Extension stream, this Division provides that a Subclass 188 visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for six years after the date of the grant of the provisional visa the applicant held at the time of application.

If an applicant satisfied the secondary criteria for the grant of a Subclass 188 visa, this Division provides that a Subclass 188 visa is a temporary visa permitting the holder to travel to, enter and remain in Australia until the day applicable to the applicant who satisfied the primary criteria for the grant of the visa.

Division 188.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed on any Subclass 188 visa.

Part 189 – Subclass 189 (Skilled – Independent)

Subclass 189 is a subclass of the new Skilled – Independent (Permanent) (Class SI) visa inserted by item [64] above.

Subclass 189 is a permanent visa that replaces the Subclass 175 (Skilled – Independent) and Subclass 885 (Skilled – Independent) visas. Amendments made in item [57] prevent new applications for the Subclass 175 visa from 1 July 2012. Amendments made in item [59] prevent new applications for the Subclass 885 visa from 1 January 2013.

The eligibility criteria for the new Subclass 189 require applicants seeking to satisfy the primary criteria to have been invited to apply for the visa. The applicant is required to achieve a specified qualifying score on a points assessment under the new Schedule 6D, to be inserted by item [119] of this Schedule, and have evidence that at the time of the invitation to apply for the visa the applicant had English language skills and qualifications of a prescribed standard.

Applicants for a Subclass 189 visa may be inside or outside Australia at the time of application and at the time the visa is granted.

Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Part 189 (Subclass 189) are:

Division 189.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 189.

Division 189.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 189 visa.

- Subdivision 189.21 – Criteria

These criteria require the applicant to have been invited to apply for the visa, to ensure the individual to whom the invitation was directed, not a member of the applicant's family unit, is the applicant seeking to satisfy the primary criteria.

This subdivision prescribes that at the time of the invitation the applicant had competent English; a relevant assessing authority had assessed the applicant's skills as suitable for the applicant's nominated occupation; and that if that assessment was based on an Australian qualification that the qualification was obtained as a result of completing a registered course. The applicant is required to obtain a score under the Schedule 6D points test that is not less than the prescribed qualifying score or the score specified in the invitation to apply on the basis of the information provided in the expression of interest.

These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

Division 189.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 189 visa on the basis of a close family relationship with a person who satisfies the primary criteria.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 189.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 189.5 – When visa is in effect

This Division provides that a Subclass 189 visa is a permanent visa permitting the holder to travel to, enter and remain in Australia for five years from the date of grant.

Division 189.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed.

Part 190 - Subclass 190 (Skilled Nominated)

Subclass 190 would be a subclass of the new Skilled – Nominated (Permanent) (Class SN) visa inserted by item [64] above.

Subclass 190 is a permanent visa that would replace the Subclass 176 (Skilled – Sponsored) visa and Subclass 885 (Skilled – Sponsored) visa. Amendments made in item [57] prevent new applications for the Subclass 176 from 1 July 2012. Amendments made in item [59] prevent new applications for the Subclass 886 from 1 January 2013.

The eligibility criteria for the new Subclass 190 require applicants seeking to satisfy the primary criteria to have been invited to apply for the visa. The applicant is required to achieve a specified qualifying score on a points assessment under the new Schedule 6D, to be inserted by item [119] of this Schedule, and be nominated by a State or Territory government agency. Applicants will require evidence that at the time of the invitation to apply for the visa the applicant had English language and qualifications of a prescribed standard.

Applicants for a Subclass 190 visa may be inside or outside Australia at the time of application and at the time the visa is granted.

Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Part 190 (Subclass 190) are:

Division 190.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 190.

Division 190.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 190 visa.

- Subdivision 190.21 – Criteria

These criteria require the applicant to have been invited to apply for the visa, to ensure the individual to whom the invitation was directed, not a member of the applicant's family unit, is the applicant seeking to satisfy the primary criteria.

This subdivision prescribes that at the time of the invitation the applicant had competent English; a relevant assessing authority had assessed the applicant's skills as suitable for the applicant's nominated occupation; and that if that assessment was based on an Australian qualification that the qualification was obtained as a result of completing a registered course. At the time of decision the nomination by the relevant State or Territory visa must not have been withdrawn. The applicant is required to obtain a score under the Schedule 6D points test that is not less than the prescribed qualifying score or the score specified in the invitation to apply on the basis of the information provided in the expression of interest.

These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

Division 190.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 190 visa on the basis of a close family relationship with a person who satisfies the primary criteria.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 190.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 190.5 – When visa is in effect

This Division provides that a Subclass 190 visa is a permanent visa permitting the holder to travel to, enter and remain in Australia for five years from the date of grant.

Division 190.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed.

Item [86] - Schedule 2, subclauses 405.227(2), 405.227(3), 405.228(2) and 405.228(3)

This item amends subclauses 405.227(2), 405.227(3), 405.228(2) and 405.228(3) in Part 405 of Schedule 2 to the Principal Regulations.

Clauses 405.227 and 405.228 prescribe different criteria for applicants for a Subclass 405 (Investor Retirement) visa, based on whether the applicant intends to live in a part of Australia specified in an instrument in writing for item 6A1001 of Schedule 6A.

The amendment inserts a reference to an instrument in writing for item 6D101 of Schedule 6D. This amendment is consequential to the repeal of Schedule 6A in item [116].

Item [87] - Schedule 2, clause 476.111, definition of *degree*

This item omits the definition of ‘degree’ from clause 476.111 in Part 476 of Schedule 2 to the Principal Regulations.

Clause 476.111 sets out the interpretation provisions relevant to Subclass 476.

The amendment omits the reference to the definition of ‘degree’ in subregulation 2.26A(6). Regulation 2.26A is repealed by item [32] above.

Item [88] - Schedule 2, clause 485.111

This item substitutes clause 485.111 in Part 485 of Schedule 2 to the Principal Regulations.

Clause 485.111 sets out the interpretation provisions relevant to Subclass 485.

New clause 485.111 provides that the meaning of ‘degree’, ‘diploma’ and ‘trade qualification’ is the meaning given in subregulation 2.26AC(6).

This amendment is consequential to the repeal of regulation 2.26A by item [32] of this Schedule and the insertion of new regulation 2.26AC by item [35].

Item [89] - Schedule 2, clause 487.111

This item substitutes clause 487.111 in Part 487 of Schedule 2 to the Principal Regulations.

Clause 487.111 sets out the interpretation provisions relevant to Subclass 487.

New clause 487.111 provides that the meaning of ‘degree’, ‘diploma’ and ‘trade qualification’ is the meaning given in subregulation 2.26AC(6).

This amendment is consequential to the repeal of regulation 2.26A by item [32] of this Schedule and the insertion of new regulation 2.26AC by item [35].

Item [90] – Schedule 2, Subdivision 487.3

This item substitutes clause 487.311 in Part 487 of Schedule 2 to the Principal Regulations.

Clause 487.311 provides that an applicant seeking to satisfy the secondary criteria for a Subclass 487 (Skilled – Regional Sponsored) visa must either be a member of the family unit of a person who satisfies the primary criteria for the grant of a Subclass 487 visa, and with whom the applicant made a combined application, or a member of the family unit of a person who already holds a Subclass 487 visa on the basis of having satisfied the primary criteria.

New clause 487.311 provides that an applicant seeking to satisfy the secondary criteria must be a member of the family unit of a person who satisfies the primary criteria and have made a combined application with that person.

Consequential to changes in item [75] above, this amendment has the effect of allowing only those members of the family unit who make a combined application with the primary applicant to satisfy the secondary criteria for the grant of a Subclass 487 visa.

The new Subclass 489 (Skilled – Regional (Provisional)) visa, inserted by item [91], establishes a new visa option for the members of a family unit of a person who already holds a Subclass 489 visa.

Item [91] - Schedule 2, after Part 488

This item inserts a new Part 489 in Schedule 2 to the Principal Regulations.

New Subclass 489 is a subclass of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa inserted by item [76] above.

Subclass 489 is a provisional visa that replaces the Subclass 475 (Skilled – Regional Sponsored) and Subclass 487 (Skilled – Regional Sponsored) visas. Amendments made in item [72] of this Schedule prevent new applications for the Subclass 475 from 1 July 2012.

Amendments in item [75] prevent Subclass 487 applications from applicants seeking an extension of a provisional skilled visa, or as a subsequent entrant from 1 July 2012. Further amendments to item 1229 in Part 2 to Schedule 1 to the Principal Regulations made in item [73] prevent new primary applications for the Subclass 487 from 1 January 2013.

Applicants seeking to satisfy the primary criteria for Subclass 489 are required to satisfy the common criteria and also the criteria for the stream in which they have applied. There are two streams in Subclass 489, the First Provisional Visa stream and the Second Provisional Visa stream.

Applicants seeking to satisfy the primary criteria for a Subclass 489 in the First Provisional Visa stream are required to have been invited to apply for that visa stream. The applicant is required to achieve a specified qualifying score on a points assessment under the new Schedule 6D, to be inserted by item [119] of this Schedule, be nominated by a State or Territory government agency or sponsored by an eligible Australian relative. Applicants are required to provide evidence that, at the time of the invitation to apply for the visa, they had English language and qualifications of a prescribed standard.

Provisional visa holders seeking an extension of their temporary visa and members of the family unit of a person who holds a provisional skilled visa on the basis of satisfying the primary criteria are eligible to apply for the new Subclass 489 visa.

Applicants for a Subclass 489 visa may be inside or outside Australia at the time of application and at the time the visa is granted.

Details of the provisions of new Part 489 (Subclass 489) are:

Division 489.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 489.

Division 489.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 489 visa. The note provides that the primary criteria for the grant of the visa are:

- First Provisional Visa stream: Subdivisions 489.21 and 489.22
- Second Provisional Visa stream: Subdivisions 489.21 and 489.23

The note for this Division provides that the primary criteria must be satisfied by at least one member of a family unit. An exception applies where the applicant is a member of the family unit of a person who holds a prescribed provisional skilled visa on the basis of satisfying the primary criteria.

The purpose of the note is to allow a person who is a member of the family unit of a provisional skilled visa that is no longer open to new applications, to apply for the Subclass 489 visa on the basis of satisfying only the secondary criteria.

- Subdivision 489.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 489.22 – Criteria for First Provisional Visa stream

These criteria require the applicant to have been invited to apply for the visa, to ensure the individual to whom the invitation was directed, not a member of the applicant's family unit, is the applicant seeking to satisfy the primary criteria.

This subdivision prescribes that at the time of the invitation the applicant had competent English; a relevant assessing authority had assessed the applicant's skills as suitable for the applicant's nominated occupation; and that if that assessment was based on an Australian qualification that the qualification was obtained as a result of completing a registered course.

At the time of decision the nomination by the relevant State or Territory visa must not have been withdrawn or where an applicant is sponsored by an eligible family member, the sponsorship must have been accepted. The applicant is required to obtain a score under the Schedule 6D points test that is not less than the prescribed qualifying score or the score specified in the invitation to apply on the basis of the information provided in the expression of interest.

Applicants under this stream and members of the family unit are required to satisfy public interest criterion 4005.

- Subdivision 489.23 – Criteria for Second Provisional Visa stream

These criteria require an applicant to have held a prescribed provisional visa and the applicant and members of their family unit to have substantially complied with the conditions to which that visa was subject.

Applicants under this stream and members of the family unit are required to satisfy public interest criterion 4007.

Division 489.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 489 visa on the basis of a close family relationship with a person who satisfies the primary criteria for a Subclass 489 visa or a prescribed provisional skilled visa.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 489.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 489.5 – When visa is in effect

This Division provides that a Subclass 489 visa in the First Provisional Visa stream is a temporary visa permitting the holder to travel to, enter and remain in Australia for four years from the date of grant. A Subclass 489 visa in the Second Provisional Visa stream is a temporary visa permitting the holder to travel to, enter and remain in Australia for a total of four years from the date of grant of their original provisional skilled visa. A Subclass 489 visa granted to an applicant who satisfies the secondary criteria will be in effect at the same time as the visa, either a Subclass 489 visa or other provisional skilled visa, granted to the person who satisfied the primary criteria.

Division 489.6 – Conditions

This Division provides that condition 8539 applies to a visa granted where the primary applicant was nominated by a State or Territory government. Condition 8549 applies where the primary applicant was sponsored by an eligible family member. Where the primary applicant was granted a Subclass 489 (Skilled – Regional (Provisional)) visa in the Second Provisional Visa stream, condition 8539 or 8549 will apply, based on the condition that applied to their original provisional skilled visa. Where a Subclass 489 visa is granted on the basis that the person is a member of the family unit of a person who holds a provisional General Skilled Migration visa other than a Subclass 489 visa, condition 8539 or 8549 will apply, based on the conditions of the other General Skilled Migration visa.

The Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides

that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed.

Item [92] - Schedule 2, Parts 495, 496 and 497

This item omits Parts 495, 496 and 497 of Schedule 2 to the Principal Regulations. Part 495 prescribes the criteria for the grant of a Subclass 495 (Skilled – Designated Area-sponsored (Provisional)) visa. Applications for this visa must have been made before 1 September 2007.

Part 496 prescribes the criteria for the grant of a Subclass 496 (State/Territory-nominated Independent) visa. Applications for this visa must have been made before 1 July 1999. Part 497 prescribes the criteria for the grant of a Subclass 497 (Graduate - Skilled) visa. Applications for this visa must have been made before 1 September 2007.

This amendment is consequential to the repeal of the related Schedule 1 provisions in items [67] and [71] above.

Item [93] - Schedule 2, after paragraph 773.213(2)(h)

This item inserts new paragraphs 773.213(2)(ha) and (hb) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Employer Nomination (Permanent) (Class EN) and Regional Employer Nomination (Permanent) (Class RN) visas, which are inserted by item [52], to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a dependent child of the visa holder and who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa.

Item [94] - Schedule 2, after paragraph 773.213(2)(lc)

This item inserts new paragraph 773.213(2)(ld) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Business Skills (Permanent) (Class EC) visa, which is inserted by item [45], to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a dependent child of the visa holder and who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa.

Item [95] - Schedule 2, paragraph 773.213(2)(zv)

This item substitutes paragraph 773.212(2)(zv) and insert new paragraphs 773.212(2)(zw) and (zx) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Skilled – Independent (Permanent) (Class SI) and Skilled – Nominated (Permanent) (Class SN) visas, which are inserted by item [64], to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a dependent child of the visa holder and who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa.

Item [96] - Schedule 2, after paragraph 773.213(3)(aa)

This item inserts new paragraph 773.213(3)(ab) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Business Skills (Provisional) (Class EB) visa, which is inserted by item [65], to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a dependent child of the visa holder and who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa.

The amendment also adds the visa class to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a person who held a visa immediately before departing Australia and who departed in circumstances in which it was not reasonably practicable to obtain a visa before departing and who would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia.

Item [97] - Schedule 2, paragraph 773.213(3)(r)

This item substitutes paragraph 773.213(3)(r) and inserts the new paragraph 773.213(3)(s) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Skilled – Regional Sponsored (Provisional) (Class SP) visa, which is inserted by item [76], to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a dependent child of the visa holder and who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa.

The amendment also adds the visa class to the list of visas that may be held by a person seeking to satisfy the criteria for a Subclass 773 visa as a person who held a visa immediately before departing Australia and who departed in circumstances in which it was not reasonably practicable to obtain a visa before departing and who would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia.

Item [98] - Schedule 2, after subparagraph 820.212(a)(iii)

This item inserts a new subparagraph 820.212(a)(iii) in Part 820 of Schedule 2 to the Principal Regulations.

Paragraph 820.212(a) provides that clause 820.212 applies to prescribed provisional skilled visa holders.

The amendment extends the operation of clause 820.212 to holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [99] - Schedule 2, subparagraph 820.212(b)(iii)

This item substitute subparagraph 820.212(b)(iii) and inserts a new subparagraph 820.212(b)(iv) in Part 820 of Schedule 2 to the Principal Regulations.

Paragraph 820.212(b) provides that clause 820.212 applies to applicants whose last substantive visa was a prescribed provisional skilled visa.

The amendment extends the operation of clause 820.212 to applicants whose last substantive visa was the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [100] - Schedule 2, after subparagraph 820.313(a)(iii)

This item inserts a new subparagraph 820.313(a)(iii) in Part 820 of Schedule 2 to the Principal Regulations.

Paragraph 820.313(a) provides that clause 820.313 applies to prescribed provisional skilled visa holders.

The amendment extends the operation of clause 820.313 to holders of the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [101] - Schedule 2, subparagraph 820.313(b)(iii)

This item substitutes subparagraph 820.313(b)(iii) and inserts a new subparagraph 820.313(b)(iv) in Part 820 of Schedule 2 to the Principal Regulations.

Paragraph 820.313(b) provides that clause 820.313 applies to applicants whose last substantive visa was a prescribed provisional skilled visa.

The amendment extends the operation of clause 820.313 to applicants whose last substantive visa was the new Skilled – Regional Sponsored (Provisional) (Class SP) visa.

Item [102] - Schedule 2, Parts 861, 862, 863, 880, 881, 882 and 883

This item omits Parts 861, 862, 863, 880, 881, 882 and 883 of Schedule 2 to the Principal Regulations.

Part 861 prescribes the criteria for the grant of a Subclass 861 (Skilled – Onshore Independent New Zealand Citizen) visa. Applications for this visa must have been made before 1 September 2007.

Part 862 prescribes the criteria for the grant of a Subclass 862 (Skilled – Onshore Australian-sponsored New Zealand Citizen) visa. Applications for this visa must have been made before 1 September 2007.

Part 863 prescribes the criteria for the grant of a Subclass 863 (Skilled – Onshore Designated Area-sponsored New Zealand Citizen) visa. Applications for this visa must have been made before 1 September 2007.

Part 880 prescribes the criteria for the grant of a Subclass 880 (Skilled – Independent Overseas Student) visa. Applications for this visa must have been made before 1 September 2007.

Part 881 prescribes the criteria for the grant of a Subclass 881 (Skilled – Australian-sponsored Overseas Student) visa. Applications for this visa must have been made before 1 September 2007.

Part 882 prescribes the criteria for the grant of a Subclass 882 (Skilled –Designated Area-sponsored Overseas Student) visa. Applications for this visa must have been made before 1 September 2007.

This amendment is consequential to the repeal of the related Schedule 1 provisions in item [56] above.

Item [103] - Schedule 2, clause 885.111

This item substitute clause 885.111 in Part 885 of Schedule 2 to the Principal Regulations.

Clause 885.111 sets out the interpretation provisions relevant to Subclass 885.

New clause 885 provides that the meaning of ‘degree’, ‘diploma’ and ‘trade qualification’ is the meaning given in subregulation 2.26AC(6).

This amendment is consequential to the repeal of regulation 2.26A by item [32] of this Schedule and the insertion of new regulation 2.26AC by item [35]. The content of the definitions is unchanged.

Item [104] - Schedule 2, clause 886.111

This item substitutes clause 886.111 in Part 886 of Schedule 2 to the Principal Regulations.

Clause 886.111 sets out the interpretation provisions relevant to Subclass 886.

New clause 886 provides that the meaning of ‘degree’, ‘diploma’ and ‘trade qualification’ is the meaning given in subregulation 2.26AC(6).

This amendment is consequential to the repeal of regulation 2.26A by item [32] of this Schedule and the insertion of new regulation 2.26AC by item [35]. The content of the definitions is unchanged.

Item [105] - Schedule 2, subparagraph 887.111(2)(e)(iii)

This item inserts the word ‘or’ after subparagraph 887.111(2)(e)(iii) in Part 887 of Schedule 2 to the Principal Regulations.

This is a technical amendment to facilitate the insertion of new paragraph 887.111(2)(f) by item [106].

Item [106] - Schedule 2, after paragraph 887.111(2)(e)

This item inserts a new paragraph 887.111(2)(f) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.111(2) defines ‘specified regional area’ in relation to an applicant for a (Skilled – Regional) Subclass 887 visa who at the time of application held a prescribed provisional skilled visa subject to condition 8549.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) visa in the list of prescribed provisional visas.

Item [107] - Schedule 2, subclause 887.111(2)

This item amends subclause 887.111(2) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.111(2) defines ‘specified regional area’ in relation to an applicant for a (Skilled – Regional) Subclass 887 visa who at the time of application held a prescribed provisional skilled visa subject to condition 8549 to be an area specified in an instrument in writing under item 6701 of Schedule 6.

The amendment also provides that a ‘specified regional area’ in relation to these applicants could be a designated area. A new definition of ‘designated area’ is inserted by item [2] above.

This amendment is consequential to the repeal of Schedule 6 in item [116] of this Schedule.

Item [108] - Schedule 2, subparagraph 887.111(3)(e)(iii)

This item inserts the word ‘or’ at the end of subparagraph 887.111(3)(e)(iii) in Part 887 of Schedule 2 to the Principal Regulations.

This is a technical amendment to facilitate the insertion of new paragraph 887.111(3)(f) by item [109].

Item [109] - Schedule 2, after paragraph 887.111(3)(e)

This item inserts a new paragraph 887.111(3)(f) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.111(3) defines ‘specified regional area’ in relation to an applicant for a (Skilled – Regional) Subclass 887 visa who at the time of application held a prescribed provisional skilled visa subject to condition 8539.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) visa in the list of prescribed provisional visas.

Item [110] - Schedule 2, subclause 887.111(3)

This item amends subclause 887.111(3) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.111(3) defines ‘specified regional area’ to be an area specified in an instrument in writing under item 6A1001 of Schedule 6A. This definition applies in relation

to an applicant for a (Skilled – Regional) Subclass 887 visa who at the time of application held a prescribed provisional skilled visa subject to condition 8539.

The amendment also provides that a ‘specified regional area’ in relation to these applicants could be an area specified in item 6D101 of new Schedule 6D.

This amendment is consequential to the repeal of Schedule 6A in item [116] of this Schedule.

Item [111] - Schedule 2, paragraph 887.212(e)

This item substitutes paragraph 887.212(e) and insert a new paragraph 887.212(f) in Part 887 of Schedule 2 to the Principal Regulations.

Clause 887.212 provides that the holder of a specified provisional skilled visa must have lived in a specified regional area for a total of at least two years while holding one or more of the prescribed visas.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) and a Bridging A or Bridging B visa granted on the basis of a valid application for a Skilled – Regional Sponsored (Provisional) (Class SP) visa as prescribed visas for clause 887.212.

Item [112] - Schedule 2, paragraph 887.221(1)(d)

This item substitutes paragraph 887.221(1)(d) and inserts a new paragraph 887.221(1)(e) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.221(1) provides that while the applicant held a prescribed provisional skilled visa they must have complied with the conditions of that visa.

The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) as a prescribed visa for subclause 887.221(1).

Item [113] - Schedule 2, paragraph 887.221(2)(d)

This item substitutes paragraph 887.221(2)(d) and inserts a new paragraph 887.221(2)(e) in Part 887 of Schedule 2 to the Principal Regulations.

Subclause 887.212(2) provides that if any members of the family unit of the applicant who are also applicants for a (Skilled – Regional) Subclass 887 hold or have previously held a prescribed provisional skilled visa, they must have complied with the conditions of that visa. The amendment includes the new Skilled – Regional Sponsored (Provisional) (Class SP) visa as a prescribed visa for subclause 887.212(2).

Item [114] – Schedule 2, paragraph 887.226(b)

This item amends paragraph 887.226(b) of Part 887 in Schedule 2 to the Principal Regulations.

Clause 887.226 prescribes the public interest criterion to be satisfied by a member of the family unit of the applicant who is not an applicant for a (Skilled – Regional) Subclass 887 visa.

The amendment aligns the health requirements for a non-migrating member of the family unit of a Subclass 887 applicant with the requirements for the Subclass 888 (Business Innovation and Investment (Permanent)) visa, inserted by item [115] of this Schedule.

Item [115] - Schedule 2, after Part 887

This item inserts a new Part 888 in Schedule 2 to the Principal Regulations.

New Subclass 888 is a subclass of the new Business Skills (Permanent) (Class EC) visa which is inserted in Schedule 1 to the Principal Regulations as new Item 1104BA by item [45] of Schedule 1 to the Regulation.

Subclass 888 is a permanent visa that replaces the following subclasses from 1 July 2012:

- Subclass 890 – Business Owner
- Subclass 891 – Investor
- Subclass 892 - State/Territory Sponsored Business Owner
- Subclass 893 - State/Territory Sponsored Investor
- Subclass 845 - Established Business in Australia
- Subclass 846 - State/Territory Sponsored Regional Established Business in Australia

Amendments made by this Regulation to prevent further applications by persons seeking to satisfy the primary criteria for a Subclass 845 or 846 visa on or after 1 July 2012.

Amendments made by the Regulation allow applications to be made for a Subclass 890, 891, 892 or 893 visa in cases where the applicant holds a visa of a subclass included in Business Skills (Provisional) (Class UR) (Subclasses 160, 161, 162, 163, 164 and 165) granted on the basis on an application made before 1 July 2012. The purpose of these amendments is to preserve the permanent visa pathways for holders of provisional visas who do not have access to an alternate pathway to permanent residence.

Subclass 888 visa establishes a new permanent residence pathway for holders of a new Subclass 188 (Business Innovation and Investment (Provisional)) visa, Subclass 444 (Special Category) visa and some Subclass 457 (Business (Long Stay)) visas.

The criteria for Subclass 888 require applicants seeking to satisfy the primary criteria to satisfy the common criteria and also the criteria for the stream in which they have applied. There are 2 streams in Subclass 888, as follows:

- Business Innovation stream
- Investor stream

Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

Details of the provisions of new Part 888 (Subclass 888) are:

Division 888.1 – Interpretation

This Division sets out the meaning of certain terms used in Subclass 888.

Division 888.2 – Primary criteria

This Division sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 888 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Business Innovation stream: subdivisions 888.21 and 888.22
- Investor stream: subdivisions 888.21 and 888.23

- Subdivision 888.21 – Common criteria

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria relate to the business conduct of the applicant and their spouse or de facto partner and require that the nominating State or Territory government agency has not withdrawn their nomination. These criteria also require the applicant to genuinely have a realistic commitment to the main business or investment activities in Australia and have a satisfactory record of compliance with the laws relating to the applicant's business. These criteria also require the primary applicant and members of the primary applicant's family unit to satisfy certain public interest criteria and special return criteria, and other requirements as prescribed.

- Subdivision 888.22 – Criteria for Business Innovation stream

These criteria relate to the period of time in which the applicant has been in Australia as the holder of a qualifying visa. This subdivision includes criteria relating to the period of time for which the applicant has actively operated a main business, and requires any applicant who acquired their ownership from another Business Skills (Permanent) (Class EC) visa applicant or visa holder, to have held their ownership interest with that person as a joint interest for at least one year before the application was made.

These criteria further relate to obtaining an Australian Business Number and submitting Business Activity Statements. These criteria also provide requirements relating to business value, employment provided by the business, business and personal assets owned and business turnover.

- Subdivision 888.23 – Criteria for Investor stream

These criteria relate to the period of time in which the applicant has been in Australia as the holder of a qualifying visa and the period of time for which the applicant has held a designated investment.

Division 888.3 – Secondary criteria

This Division sets out the requirements to be met by an applicant who is seeking to meet the secondary criteria for the grant of a Subclass 888 visa on the basis of a close family relationship with a person who satisfies the primary criteria. Secondary applicants are

required to have made a combined application with the primary applicant, meet certain public interest criteria and special return criteria, and hold a valid passport (unless it would be unreasonable to require the applicant to be the holder of a passport), as well as other requirements as prescribed.

Division 188.4 – Circumstances applicable to grant

This Division provides that the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

Division 888.5 – When visa is in effect

This Division provides that the Subclass 888 visa is a permanent visa permitting the holder to travel to, enter and remain in Australia for five years from the date of grant.

Division 888.6 – Conditions

This Division provides that if the applicant is outside Australia when the visa is granted, first entry must be made before the date specified by the Minister. This Division also provides that if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515, which prevents the holder from marrying or entering into a de facto relationship before entering Australia, may be imposed on any Subclass 888 visa.

Item [116] - Schedules 6 and 6A

This item omits Schedules 6 and 6A to the Principal Regulations.

This amendment is consequential to the repeal of regulations 2.26 and 2.26A by item [32] above.

Item [117] - Schedule 6B, item 6B91, column 2, paragraphs (b) and (c)

This item amends subparagraphs 6B91(b) and (c) of Schedule 6B to the Principal Regulations.

Item 6B91 provides for the award of five points where an applicant has satisfied the Australian study requirement while living and studying in regional Australia as specified in an instrument in writing for item 6A1001 of Schedule 6A.

This amendment replaces the words ‘for item 6A1001 of Schedule 6A’ in paragraphs 6D91(b) and (c) with the words ‘for item 6D101 of Schedule 6D’.

This amendment is consequential to the repeal of Schedule 6A by item [116] above and the insertion of new Schedule 6D by item [119].

Item [118] - Schedule 6C, item 6C101, column 2, paragraphs (b) and (c)

This item amends subparagraphs 6C101(b) and (c) of Schedule 6C to the Principal Regulations.

Item 6C101 provides for the award of five points where an applicant has satisfied the Australian study requirement while living and studying in regional Australia as specified in an instrument in writing for item 6A1001 of Schedule 6A.

This amendment replaces the words ‘for item 6A1001 of Schedule 6A’ in paragraphs 6C101(b) and (c) with the words ‘for item 6D101 of Schedule 6D’.

This amendment is consequential to the repeal of Schedule 6A by item [116] above and the insertion of new Schedule 6D by item [119].

Item [119] - After Schedule 6C

This item inserts new Schedule 6D – General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1).

New Schedule 6D is inserted in the Principal Regulations pursuant to new regulation 2.26AC, inserted by item [35] above.

New Schedule 6D largely replicates Schedule 6C. However to support the integrity of the new methodology for selecting skilled migrants under Schedule 6D points are awarded based on an applicant’s characteristics and qualifications as at the time that the invitation to apply for a General Skilled Migration visa was issued.

Part 6D.1 - Age Qualifications

This Part has four items - 6D11, 6D12, 6D13 and 6D14. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualifications at the time that the time of invitation to apply are as follows:

- Item 6D11 provides 25 points for applicants aged not less than 18 and under 25
- Item 6D12 provides 30 points for applicants aged not less than 25 and under 33
- Item 6D13 provides 25 points for applicants aged not less than 33 and under 40
- Item 6D14 provides 15 points for applicants aged not less than 40 and under 45

Part 6D.2 – English Language Qualifications

This Part has two items – 6D21 and 6D22. The qualifications prescribed by the items and the points available for applicants who satisfy the relevant qualifications, at the time of the invitation to apply are as follows:

- Item 6D21 provides 20 points for applicants who have superior English
- Item 6D22 provides 10 points for applicants who have proficient English

Part 6D.3 – Overseas employment experience qualifications

This Part has three items – 6D31, 6D32 and 6D33. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification at the time of invitation to apply are as follows:

- Item 6D31 provides five points for applicants who had been employed outside Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 36 months in the 10 years immediately before the invitation was issued
- Item 6D32 provides 10 points for applicants who had been employed outside Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 60 months in the 10 years immediately before the invitation was issued
- Item 6D33 provides 15 points for applicants who had been employed outside Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 96 months in the 10 years immediately before the invitation was issued

Part 6D.4 – Australian employment experience qualifications

This Part has four items – 6D41, 6D42, 6D43 and 6D44. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification, at the time of invitation to apply, are as follows:

- Item 6D41 provides five points for applicants who had been employed in Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 12 months in the 10 years immediately before the invitation was issued
- Item 6D42 provides 10 points for applicants who had been employed in Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 36 months in the 10 years immediately before the invitation was issued
- Item 6D43 provides 15 points for applicants who had been employed outside Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 60 months in the 10 years immediately before the invitation was issued
- Item 6D44 provides 20 points for applicants who had been employed outside Australia in either the applicant's nominated skilled occupation or a closely related skilled occupation for a period totalling at least 96 months in the 10 years immediately before the invitation was issued

Part 6D.5 – Aggregating points for employment experience qualifications

This Part has one item – 6D51, which provides for points awarded under Part 6D.3 'Overseas Employment Experience Qualifications' and 6D.4 'Australian Employment Experience Qualifications' to be aggregated where an applicant is eligible for points under both Parts.

Subitem 6D51(1) provides that if an applicant has a qualification mentioned in the new Part 6D.3 and 6D.4, and the combined number of points awarded under those parts for the qualifications is more than 20 points, the Minister must give the applicant 20 points under Part 6D.5 for the qualifications and no points under Part 6D.3 or 6D.4.

Subitem 6D51(2) provides that the prescribed number of points for the combination of qualifications is 20.

Part 6D.6 – Australian professional year qualifications

This Part has one item – 6D61, which provides five points available for applicants who at the time of the invitation to apply had completed a professional year in Australia in either the applicant’s nominated skilled occupation or a closely related skilled occupation for a period totalling at least 12 months in the 48 months immediately before the invitation was issued.

Part 6D.7 – Educational qualifications

This Part has five items – 6D71, 6D72, 6D73, 6D74 and 6D75. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification at the time of the invitation to apply for the visa are as follows:

- Item 6D71 provides 20 points for applicants who have met the requirements for the award of a doctorate by an Australian educational institution or the award of a doctorate by another educational institution, that is of a recognised standard
- Item 6D72 provides 15 points for applicants who have met the requirements for the award of at least a bachelor degree by an Australian educational institution or the award of a bachelor qualification by another educational institution, that is a of recognised standard
- Item 6D73 provides 10 points for applicants who have met the requirements for the award of a diploma by an Australian educational institution
- Item 6D74 provides 10 points for applicants who have met the requirements for the award of a trade qualification by an Australian educational institution
- Item 6D75 provides 10 points for applicants who have attained a qualification or award recognised by the relevant assessing authority for the applicant’s nominated skilled occupation as being suitable for the occupation

Part 6D.8 – Australian study qualifications

This Part has one item, 6D81. Item 6D81 prescribes five points are available for applicants who satisfy the Australian study requirement, as defined in regulation 1.15F, at the time of invitation to apply for the visa.

Part 6D.9 – Credentialed community language qualifications

This Part has one item, 6D91. Item 6D91 prescribes the points available for applicants who satisfy the credentialed community language qualifications at the time of the invitation to apply for the visa.

Item 6D91 provides five points for applicants who have a qualification in a particular language awarded or accredited by a body specified by the Minister in an instrument in writing for this item and at a standard for the language specified in the instrument.

Part 6D.10 – Study in regional Australia or a low-population growth metropolitan area qualifications

Item 6D.10 has one item, 6D101. Item 6D101 prescribes the points available for applicants who satisfy the study in regional Australia or low-population growth metropolitan area qualification at the time of the invitation to apply for the visa.

Item 6D101 provides five points to applicants who met the Australian study requirement at a campus or campuses at a location specified by the Minister in an instrument in writing, and whilst studying lived in the part of Australia the postcode of which was specified by the Minister in an instrument in writing where none of the study constituted distance education.

Part 6D.11 – Partner skill qualifications

This Part has one item, 6D111. Item 6D111 prescribes the points available for applicants who satisfy the partner skill qualifications.

Item 6D111 provides five points if the spouse or de facto partner of the primary applicant:

- is an applicant for the same subclass of visa as the primary applicant; and
- is not an Australian permanent resident or Australian citizen; and
- was under 50 years of age at the time the invitation to apply for the visa was issued to the primary applicant; and
- at the time of invitation, has nominated a skilled occupation, being an occupation that was specified in the version of the instrument made by the Minister under paragraph 1.15I(1)(a) in effect at the time of the invitation to apply for the visa; and
- at the time of the invitation to apply for the visa, had been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and
- at the time of the invitation to apply for the visa, had competent English.

Part 6D.12 – State or Territory nomination qualifications

This item has one part, 6D121. Item 6D121 prescribes that five points are available for applicants who were invited to apply for a Subclass 190 (Skilled – Nominated) visa and the nominating State or Territory government agency has not withdrawn the nomination.

Part 6D.13 – Designated area sponsorship qualification

This Part has one item – 6D131. Item 6D131 prescribes that 10 points are available for applicants who were invited to apply for a Subclass 489 visa and either:

- the nominating State or Territory government agency has not withdrawn the nomination; or
- if the applicant is sponsored by a family member, the Minister has accepted the sponsorship.

Item [120] - After Schedule 7

This item inserts a new Schedule 7A to the Principal Regulations.

Schedule 7A prescribes the new Business innovation and investment points test for applicants for Business Skills (Provisional) (Class EB) visas.

Pursuant to item [85] of this regulation, that an applicant seeking to satisfy the primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the

Business Innovation or Investor stream is required to receive not less than the number of points specified by the Minister, in an instrument in writing, on the business innovation and investment points test.

Details of the qualifications and points prescribed under the Schedule 7A are as follows:

Part 7A.1 – Definitions

Part 7A1 provides that degree, diploma and trade qualification have the meaning given by subregulation 2.26AC(6) of the Principal Regulations.

Part 7A.2 – Age qualifications

This Part has five items - 7A21, 7A22, 7A23, 7A24 and 7A25. The qualifications prescribed by the items, and the points available for applicants who, as the time of invitation to apply for the visa, satisfy the relevant qualification are as follows:

- Item 7A21 provides 20 points for applicants aged not less than 18 and under 25
- Item 7A22 provides 30 points for applicants aged not less than 25 and under 33
- Item 7A23 provides 25 points for applicants aged not less than 33 and under 40
- Item 7A24 provides 20 points for applicants aged not less than 40 and under 45
- Item 7A25 provides 15 points for applicants aged not less than 45 and under 55

Part 7A.3 – English language qualifications

This Part has two items - 7A31 and 7A32. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification at the time of invitation to apply for the visa, are as follows:

- Item 7A31 provides five points for applicants who have vocational English
- Item 7A32 provides 10 points for applicants who have proficient English

The note to this Part provides that points may be accumulated under item 7A31 or 7A32 but not both items.

Part 7A.4 – Educational qualifications

This Part has two items - 7A41 and 7A42. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification at the time of invitation to apply for the visa, are as follows:

- Item 7A41 provides five points for applicants who have met the requirements for the award of a trade qualification, diploma or bachelor degree by an Australian educational institution, or a bachelor qualification by an educational institution of a recognised standard
- Item 7A42 provides 10 points for applicants who have met the requirements for the award of a bachelor degree in business, science or technology by an Australian educational institution, or a bachelor qualification in business, science or technology by an educational institution of a recognised standard

The note to this Part provides that points may be accumulated under item 7A41 or 7A42 but not both items.

Part 7A.5 - Business experience qualifications – Business Innovation stream only

This Part has two items - 7A51 and 7A52. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification are as follows:

- Item 7A51 provides 10 points to applicants who have held one or more main businesses for not less than four years in the five years immediately before the time of the invitation to apply for the visa
- Item 7A52 provides 15 points to applicants who have held one or more main businesses for not less than seven years in the eight years immediately before the time of the invitation to apply for the visa

An applicant will only be eligible to accrue points under this Part if they are seeking to meet the primary criteria for the grant of a Subclass 188 visa in the Business Innovation stream. The criteria for the Subclass 188 visa in the Business Innovation stream, in item [85] of this Regulation, provide that an applicant's score on the business innovation and investment points test is the sum of the applicant's scores under Parts 2, 3, 4, 5, 7, 8, 9 and 10 of Schedule 7A.

The note to this Part provides that points may be accumulated under item 7A51 or 7A52 but not both items.

Part 7A.6 - Business experience qualifications – Investor stream only

This Part has two items - 7A61 and 7A62. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification are as follows:

- Item 7A61 provides 10 points to an applicant who held eligible investments which had a value of not less than AUD 100 000 for not less than four years immediately before the time of the invitation to apply for the visa
- Item 7A62 provides 15 points to held eligible investments which had a value of not less than AUD 100 000 for not less than seven years immediately before the time of the invitation to apply for the visa

An applicant is only eligible to accrue points under this Part if they are seeking to meet the primary criteria for the grant of a Subclass 188 visa in the Investor stream. The criteria for the Subclass 188 visa in the Investor stream, in item [85] of this Regulation, provide that an applicant's score on the business innovation and investment points test is the sum of the applicant's scores under Parts 2, 3, 4, 6, 7, 8, 9 and 10 of Schedule 7A.

The note to this Part provides that points may be accumulated under item 7A61 or 7A62 but not both items.

Part 7A.7 – Financial asset qualifications

This Part has four items - 7A71, 7A72, 7A73 and 7A74 which prescribes points where the applicant, the applicant's spouse or de facto partner, or the applicant and their spouse or

de facto partner together have business and personal assets of a certain net value. The relevant net value qualifications are as follows:

- Item 7A71 provides five points where the applicant has not less than AUD 800 000 in each of the two fiscal years immediately before the time of the invitation
- Item 7A72 provides 15 points where the applicant has not less than AUD 1 300 000 in each of the two fiscal years immediately before the time of the invitation
- Item 7A73 provides 25 points where the applicant has not less than AUD 1 800 000 in each of the two fiscal years immediately before the time of the invitation
- Item 7A74 provides 35 points where the applicant has not less than AUD 2 250 000 in each of the two fiscal years immediately before the time of the invitation

The note to this Part provides that points may be accumulated under one item in 7A7, not more than one.

Part 7A.8 – Business turnover qualifications

This Part has four items - 7A81, 7A82, 7A83 and 7A84. The qualifications prescribed by the items, and the points available for applicants, prescribes points where the applicant had an ownership interest in one or more main businesses that had a certain annual turnover. The relevant net value qualifications are as follows:

- Item 7A81 provides five points where the applicant had not less than AUD 500 000 in at least two of the four fiscal years immediately before the time of the invitation to apply for the visa
- Item 7A82 provides 15 points where the applicant had not less than AUD 1 000 000 in at least two of the four fiscal years immediately before the time of the invitation to apply for the visa
- Item 7A83 provides 25 points where the applicant had not less than AUD 1 500 000 in at least two of the four fiscal years immediately before the time of the invitation to apply for the visa
- Item 7A84 provides 35 points where the applicant had not less than AUD 2 000 000 in at least two of the four fiscal years immediately before the time of the invitation to apply for the visa

The note to this Part provides that points may be accumulated under one item in 7A8, not more than one.

Part 7A.9 - Business innovation qualifications

This Part has six items – 7A91, 7A92, 7A93, 7A94, 7A95 and 7A96. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant qualification at the time of invitation to apply for the visa, are as follows:

- Item 7A91 provides 15 points where the applicant or a main business of the applicant had one or more patents or registered designs that were registered for not less than one year before the time of the invitation and were used in the day to day activities of the business
- Item 7A92 provides 10 points where the applicant or a main business of the applicant had one or more registered trade marks that were registered for not less than one year

before the time of the invitation and were used in the day to day activities of the business

- Item 7A93 provides five points where at least one main business in which the applicant held an ownership interest operated in accordance with a formal joint venture agreement entered into with another business or businesses, and was entered into not less than one year before the time of invitation, and the applicant utilised his or her skills in actively participating at a senior level in the day to day management of the business
- Item 7A94 provides 15 points where at least one main business held by the applicant derived not less than 50 per cent of its annual turnover from export trade in at least two of the four fiscal years immediately before the time of the invitation
- Item 7A95 provides 10 points where the applicant had an ownership interest in at least one main business that was established not more than five years before the time of the invitation; and had an average annualised growth in turnover that was greater than 20 per cent per annum over three continuous fiscal years; and in at least one of the three fiscal years mentioned in paragraph (b) employed 10 or more employees for a total number of hours that was at least the total number of hours that would have been worked by 10 full-time employees
- Item 7A96 provides 10 points where the applicant, or at least one main business in which the applicant held an ownership interest had received a grant that was awarded for the purposes of early phase start up of a business, product commercialisation business development or business expansion; and was at least AUD 10 000; and was awarded by a government body in the applicant's home country; and had been received not more than four years immediately before the time of the invitation; or had received venture capital funding of at least AUD 100 000 not more than four years before the time of the invitation for the purposes of early phase start up of a business, product commercialisation business development or business expansion

The note provides that points may be accumulated under more than one item in Part 7A9, but points may not be accumulated more than once for each item in the Part.

Part 7A.10 – Special endorsement qualifications

This Part has one item. This item provides 10 points where the nominating State or Territory government agency had determined that the business proposed by the applicant was of unique and important benefit to the State or Territory where the nominating government agency is located.

Item [121] - Schedule 8, item 8539

This item amends item 8539 of Schedule 8 to the Principal Regulations.

Item 8539 provides that the holder of a visa subject to condition 8539 must live, study and work only in an areas specified in an instrument for item 6A1001 of Schedule 6A at the relevant time.

The amendment provides an alternative that the visa holder must live, study and work in an area specified in an instrument for item 6D101 of Schedule 6D at the relevant time.

This amendment is consequential to the repeal of Schedule 6A in item [116] above.

Item [122] - Schedule 8, item 8549

This item amends item 8549 of Schedule 8 to the Principal Regulations.

Item 8549 provides that the holder of a visa subject to condition 8549 must live, study and work only in an areas specified by the Minister in an instrument for item 6701 of Schedule 6 at the relevant time.

The amendment provides an alternative that the visa holder must live, study and work in an area specified in a designated area at the relevant time. A new definition of ‘designated area’ is inserted by item [2] of Schedule 1 to this Regulation.

This amendment is consequential to the repeal of Schedule 6 in item [116] above.

Item [123] - Schedule 8, after item 8549

This item inserts a new note after item 8549 of Schedule 8 to the Principal Regulations. The amendment provides a note that ‘designated area’ is defined in regulation 1.03.

This amendment is consequential to substantive amendments to Item 8549 in item [122].

Item [124] - After Schedule 12

This item inserts a new Schedule 13 (Transitional arrangements) to the Principal Regulations. The purpose of the new Schedule 13 is to provide transitional arrangements in respect of amendments to the Principal Regulations

Part 1 (Amendments made by *Migration Amendment Regulation 2012 (No. 2)*) provides transitional arrangements in respect of amendments made to the Principal Regulations by this Regulation.

New item 101 (Operation of Schedule 1) in Part 1 applies to the amendments to the Principal Regulations by Schedule 1 to this Regulation on 1 July 2012.

Subitem 101(1) provides that the amendments made by Schedule 1 to this Regulation apply only in relation to an application for a visa or an application for approval of a nomination that was made on or after 1 July 2012. The effect of this subregulation is that the amendments made by Schedule 1 to this Regulation apply only to prospective applications and that the Principal Regulations as in force before 1 July 2012 continue to apply in respect of visa and nomination applications made before that date.

Subitem 101(2) provides that repeals of provisions of the Principal Regulations by Schedule 1 of this Regulation do not apply in relation to visa applications considered to have been made before or after 1 July 2012 in accordance with regulation 2.08 (Application by newborn child), regulation 2.08A (Addition of certain applicants to certain applications for permanent visas) and regulation 2.08B (Addition of certain dependent children to certain applications for temporary visas). This provision allows a newborn child, spouse or other dependant of a person applying before 1 July 2012 for certain visas to be repealed by Schedule 1 to this Regulation on 1 July 2012 to make a combined application with that person at any time before a decision is made on the application.

Subitem 101(3) provides that despite the substitution of new provisions at subregulations 5.19(1) to (7) (item [41] above), an application to the Minister for approval of a nominated position as an approved appointment made before 1 July 2012 is to be dealt with in accordance with the Principal Regulations as in force immediately before that date.

Schedule 2 Amendments commencing on 1 July 2013

Item [1] - Regulation 1.03, definition of *business skills points test*

This item omits the definition of ‘business skills points test’ in regulation 1.03.

This amendment is consequential to item [8] of Schedule 2 to this Regulation, which omits the Business Skills – Established Business (Residence) (Class BH) visa from 1 July 2013 and item [29] of Schedule 2 to this Regulation, which omits the business skills points test in Schedule 7 to the Principal Regulations. The Business Skills – Established Business (Residence) (Class BH) visas are the only visas which apply the business skills points test.

Item [2] - Regulation 1.03, definition of *concessional competent English, designated language and Migration occupation in demand*

This item omits the definition of ‘concessional competent English’, ‘designated language’ and ‘migration occupation in demand’ from regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.03 provides that ‘concessional competent English’ has the meaning given by regulation 1.15E.

The amendment omits this reference consequential to the repeal of regulation 1.15E in item [5] of this Schedule.

Regulation 1.03 provides that ‘designated language’ means a language specified in a Gazette Notice as a designated language.

The amendment omits this definition which is used only in Schedules 6B and 6C and is repealed by item [27] of this Schedule.

Regulation 1.03 provides that ‘migration occupation in demand’ has the meaning given in regulation 1.15H.

The amendment omits this reference consequential to the repeal of regulation 1.15H in item [5] of this Schedule.

Item [3] - Regulation 1.03, definition of *RHQ agreement*

This item omits the definition of ‘RHQ agreement’ in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

The definition of ‘RHQ agreement’ in regulation 1.03 refers to regulation 1.16A.

This amendment is consequential to the repeal of regulation 1.16A in item [6] of this Schedule.

Item [4] - Subregulations 1.12(8) and (9)

This item omits subregulations 1.12(8) and (9) of Division 1.2 of Part 1 of the Principal Regulations.

Subregulation 1.12(8) provides that a holder of a Skilled – Independent Regional (Provisional) (Class UX) visa will be the member of the family unit of a person who is an applicant for an Employer Nomination (Residence) (Class BW); a Business Skills (Residence) (Class DF); or a Skilled Independent (Migrant) (Class BN) visa in prescribed circumstances where they would not otherwise meet the definition of member of the family unit in subregulation 1.12(1).

As a consequence of amendments made by this Regulation, to repeal Class BN and BW and close Class DF to any applicant who does not held a Business Skills (Provisional) (Class UR), this subregulation is redundant.

Subregulation 1.12(9) provides that a holder of a prescribed provisional skilled visa is a member of the family unit of a person who is an applicant for an Employer Nomination (Residence) (Class BW); a Skilled (Residence) (Class VB); or a Skilled (Provisional) (Class VC) seeking to satisfy the primary criteria for the grant of a 487 visa in prescribed circumstances where they would not otherwise meet the definition of member of the family unit in subregulation 1.12(1).

New subregulation 1.12(9) provides that a holder of a prescribed provisional skilled visa is be the member of the family unit of a person who is an applicant for an Skilled (Residence) (Class VB) visa where person is included in the Class VB visa application and the prescribed provisional skilled visa was granted on the basis that the person was a member of the family unit of the primary visa holder.

The purpose of this amendment is to remove references to the Class BW and Subclass 487 visas that is repealed by this Regulation.

Item [5] - Regulations 1.15E and 1.15H

This item omits regulations 1.15E and 1.15H in Division 1.2 of Part 1 of the Principal Regulations.

Regulation 1.15E prescribes the definition for ‘concessional competent English’. This term is used only in Schedule 6B to the Principal Regulations.

This amendment is consequential to amendments that omit Schedule 6B in item [27] of this Schedule.

Regulation 1.15H prescribes the definition for ‘migration occupation in demand’.

This term is used only in Schedule 6B and Schedule 7 to the Principal Regulations which is omitted by items [27] and [28] of this Schedule.

Item [6] - Regulation 1.16A

This item omits regulation 1.16A in Division 1.3 of Part 1 of the Principal Regulations.

Regulation 1.16A prescribes the definition of ‘regional headquarters agreements’. This definition is only used in relation to the Subclass 120 (Labour Agreement) and Subclass 855 (Labour Agreement) visas, which are to be repealed by item [26] of this Schedule.

The purpose of this amendment is to remove a now redundant regulation.

Item [7] - Regulations 2.26AA and 2.26AB

This item omits regulations 2.26AA and 2.26AB in Division 2.6 of Part 2 of the Principal Regulations.

Regulation 2.26AA prescribes qualifications and points for applicants for General Skilled Migration visas under Schedule 6B.

Regulation 2.26AB prescribes qualifications and points for other applications for General Skilled Migration visas under Schedule 6C.

Schedules 6B and 6C are replaced by new Schedule 6D inserted by item [119] in Schedule 1 to this Regulation.

Item [8] - Schedule 1, items 1104A, 1114, 1114A, 1121, 1121A and 1135

This item omits items 1104A, 1114, 1114A, 1121, 1121A and 1135 from Schedule 1 to the Principal Regulation on 1 July 2013.

Item 1104A prescribes the requirements to make a valid application for a Business Skills — Established Business (Residence) (Class BH) visa. Amendments made by item [46] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class BH visa to apply before 1 July 2012.

Item 1114 prescribes the requirements to make a valid application for an Employer Nomination (Migrant) (Class AN) visa. Amendments made by item [50] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class AN visa to apply before 1 July 2012.

Item 1114A prescribes the requirements to make a valid application for an Employer Nomination (Residence) (Class BW) visa. Amendments made by item [51] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class BW visa to apply before 1 July 2012.

Item 1121 prescribes the requirements to make a valid application for a Labour Agreement (Migrant) (Class AU) visa. Amendments made by item [54] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class AU visa to apply before 1 July 2012.

Item 1121A prescribes the requirements to make a valid application for a Labour Agreement (Residence) (Class BV) visa. Amendments made by item [55] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class BV visa to apply before 1 July 2012.

Item 1135 prescribes the requirements to make a valid application for a Skilled (Migrant) (Class VE) visa. Amendments made by item [57] of Schedule 1 to this Regulation require applications by a person seeking to satisfy the primary criteria for a Class VE visa to apply before 1 July 2012.

The purpose of this amendment is to remove redundant regulations. The transitional provisions in item [29] of this Schedule have the effect of allowing a newborn child, spouse or other dependent of a person who made an application for one of these visas before 1 July 2012, to make a combined application with that person at any time before a decision is taken on the application.

Item [9] – Schedule 1, subitem 1136(1)

This item substitutes subitem 1136(1) of Schedule 1 to the Principal Regulations.

Subitem 1136(1) prescribes form 1276 and 1276 (Internet) as the approved forms to be used to apply for a Skilled (Residence) (Class VB) visa.

New subitem 1136(1) prescribes that only the Internet form 1276 is an approved form to apply for a Class VB visa.

The purpose of this amendment is to align with amendments made by item [61] of Schedule 1 to this Regulation that provide that that an application for a Class VB visa made on or after 1 January 2013 must be made as an Internet application.

Item [10] - Schedule 1, paragraphs 1136(3)(a) and (ab)

This item substitutes paragraph 1136(3)(a) and omit paragraph 1136(3)(ab) of Schedule 1 to the Principal Regulations.

New paragraph 1136(3)(a) prescribes that an application for a Skilled (Residence) (Class VB) visa must be made as an internet application.

Amendments made by items [60] and [61] of Schedule 1 to this Regulation provide different methods for making an application for a Class VB visa made before 1 January 2013, and applications made on or after 1 January 2013.

The purpose of the amendment is to simplify the regulations by removing redundant provisions.

Item [11] - Schedule 1, paragraphs 1136(3)(ba), (bb), (ca) and (d)

This item omits paragraphs 1136(3)(ba), (bb), (ca) and (d) in Part 1 of Schedule 1 to the Principal Regulations.

Paragraphs 1136(3)(ba) and (bb) prescribe criteria relating to skills assessments for applicants for a Skilled (Residence) (Class VB) visa who are seeking to satisfy the criteria for the grant of a Subclass 885 (Skilled – Independent) or Subclass 886 (Skilled – Sponsored) visa.

Paragraph 1136(3)(c) prescribes that an applicant for a Subclass 886 visa must meet the requirements of subitems (3A) or (3B).

Paragraph 1136(3)(d) prescribes that all applicants for a Class VB visa must meet the requirements of one of subitems (4), (5), (6) or (7).

Item [59] of Schedule 1 to this Regulation closes Subclass 885 and 886 to new primary applications from 1 January 2013. Amendments in this item and items [12] and [26] of this Schedule repeal provisions in item 1136 and the relevant Parts of Schedule 2 to the Principal Regulations relating to applicants for each of these subclasses.

The transitional provisions in item [29] of this Schedule have the effect of allowing a newborn child, spouse or other dependent of a person who made an application for one of these visas before 1 July 2012, to make a combined application with that person at any time before a decision is taken on the application.

Item [12] - Schedule 1, subitems 1136(3A), (3B), (4), (5) and (6)

This item omits subitems 1136(3A), (3B), (4), (5) and (6) in Part 1 of Schedule 1 to the Principal Regulations.

Subitems 1136(3A) and (3B) prescribe requirements that relate only to applicants for a Subclass 886 (Skilled – Sponsored) visa.

Subitems 1136(4), (5) and (6) prescribe requirements that relate only to applicants for a Subclass 885 (Skilled – Independent) or Subclass 886 visa.

Item [59] of Schedule 1 to this Regulation closes Subclass 885 and 886 to new primary applications from 1 January 2013. This amendment repeals provisions in item 1136 relating to applicants for each of these subclasses.

Item [13] - Schedule 1, subitem 1136(8)

This item substitutes subitem 1136(8) in Part 1 of Schedule 1 to the Principal Regulations.

Subitem 1136(8) prescribes the subclasses related to the Skilled (Residence) (Class VB) visa.

The amendment removes references to the Subclass 885 (Skilled – Independent) and Subclass 886 (Skilled – Sponsored) visas and prescribes that Subclass 887 (Skilled – Regional) is the only subclass of the Class VB visa.

Item [59] of Schedule 1 to this Regulation closes Subclass 885 and 886 to new primary applications from 1 January 2013. This amendment repeals provisions in item 1136 relating to applicants for each of these subclasses.

Item [14] - Schedule 1, subitem 1228(2)

This item substitutes subitem 1228(2) in Part 2 of Schedule 1 to the Principal Regulations.

Subitem 1228(2) prescribes the visa application charge for an applicant for a Skilled (Provisional) (Class VF) visa.

New subitem 1228(2) prescribes that the first instalment of the visa application charge for all applicants for a Class VF visa is the rate that currently applies to applicants seeking to satisfy the criteria for the grant of a Subclass 476 (Skilled – Recognised Graduate) visa.

Item [72] of Schedule 1 to this Regulation closes Subclass 475 to new primary applications from 1 July 2012.

The purpose of this amendment is to remove references to the Subclass 475 (Skilled – Regional Sponsored) visa that is repealed by items [15] – [18] of this Schedule.

Item [15] – Schedule 1, paragraph 1228(3)(aa)

This item omits paragraph 1228(3)(aa) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1228(3)(aa) was inserted by item [72] of Schedule 1 to this Regulation to close the Subclass 475 (Skilled – Regional Sponsored) visa to new primary applications from 1 July 2012.

The purpose of this amendment in combination with items [14] and [16] – [18] of this Schedule is to repeal the Subclass 475 (Skilled – Regional Sponsored) visa.

Item [16] - Schedule 1, paragraph 1228(3)(b)

This item omits paragraph 1228(3)(b) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1228(3)(b) prescribes criteria that relate only to the Subclass 475 (Skilled – Regional Sponsored) visa.

Item [72] of Schedule 1 to this Regulation closes Subclass 475 to new primary applications from 1 July 2012.

The purpose of this amendment in combination with items [14], [15], [17] and [18] of this Schedule is to repeal the Subclass 475 (Skilled – Regional Sponsored) visa.

The transitional provisions in item [29] of this Schedule have the effect of allowing a newborn child, spouse or other dependent of a person who made an application for one of these visas before 1 July 2012, to make a combined application with that person at any time before a decision is taken on the application.

Item [17] - Schedule 1, subitems 1228(3A) and (3B)

This item omits subitems 1228(3A) and (3B) in Part 2 of Schedule 1 to the Principal Regulations.

Subitems 1228(3A) and (3B) prescribe criteria that relate only to the Subclass 475 (Skilled – Regional Sponsored) visa.

Item [72] of Schedule 1 to this Regulation closes Subclass 475 to new primary applications from 1 July 2012.

The purpose of this amendment in combination with items [14] - [16] and [18] of this Schedule is to repeal the Subclass 475 (Skilled – Regional Sponsored) visa.

Item [18] - Schedule 1, subitem 1228(4)

This item substitutes subitem 1228(4) in Part 2 of Schedule 1 to the Principal Regulations.

Subitem 1228(4) prescribes the subclasses related to the Skilled (Provisional) (Class VF) visa.

The amendment removes references to the Subclass 475 (Skilled – Regional Sponsored) and prescribe that Subclass 476 (Skilled – Recognised Graduate) is the only subclass for Class VF.

The purpose of this amendment in combination with items [14] - [17] of this Schedule is to repeal the Subclass 475 (Skilled – Regional Sponsored) visa.

Item [19] - Schedule 1, paragraph 1229(2)(a)

This item substitutes paragraph 1229(2)(a) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1229(2)(a) prescribes the first instalment of the visa application charge for the Skilled (Provisional) (Class VC) visa.

New paragraph 1229(2)(a) prescribes that the first instalment of the visa application charge for all applicants for a Class VC visa is the rate that currently applies to applicants seeking to satisfy the criteria for the grant of a Subclass 485 (Skilled – Graduate) visa.

Item [73] of Schedule 1 to this Regulation closes Subclass 487 (Skilled – Regional Sponsored) visa to new primary applications from 1 January 2013.

The purpose of this amendment is to remove references to the Subclass 487 visa that is repealed by items [21] – [23] of this Schedule.

Item [20] - Schedule 1, paragraph 1229(2)(b)

This item substitutes paragraph 1229(2)(b) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraph 1229(2)(b) prescribes the second instalment of the visa application charge for the Skilled (Provisional) (Class VC) visa.

New paragraph 1229(2)(a) prescribes that the second instalment of the visa application charge for all applicants for a Class VC visa is nil, the rate that currently applies to applicants seeking to satisfy the criteria for the grant of a Subclass 485 (Skilled – Graduate) visa.

Item [73] of Schedule 1 to this Regulation closes Subclass 487 (Skilled – Regional Sponsored) visa to new primary applications from 1 January 2013.

The purpose of this amendment is to remove references to the Subclass 487 that is repealed by items [21] – [23] of this Schedule.

Item [21] - Schedule 1, paragraphs 1229(3)(aa), (ab) and (da)

This item omits paragraphs 1229(3)(aa), (ab) and (da) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraphs 1229(3)(aa), (ab) and (da) prescribe requirements that relate only to applicants seeking to satisfy the criteria for a Subclass 487 (Skilled – Regional Sponsored) visa.

The purpose of this amendment, in combination with items [22] and [23] of this Schedule is to repeal the Subclass 487 (Skilled – Regional Sponsored) visa.

The transitional provisions in item [29] of this Schedule have the effect of allowing a newborn child, spouse or other dependent of a person who made an application for one of these visas before 1 July 2012, to make a combined application with that person at any time before a decision is taken on the application.

Item [22] - Schedule 1, subitems 1229(3A), (3B), (5), (6) and (7)

This item omits subitems 1229(3A), (3B), (5), (6) and (7) in Part 2 of Schedule 1 to the Principal Regulations.

Subitems 1229(3A), (3B), (5), (6) and (7) prescribe requirements that relate only to applicants seeking to satisfy the criteria for a Subclass 487 (Skilled – Regional Sponsored) visa.

The purpose of this amendment, in combination with items [21] and [23] of this Schedule is to repeal the Subclass 487 (Skilled – Regional Sponsored) visa.

Item [23] - Schedule 1, subitem 1229(10)

This item substitutes subitem 1229(10) in Part 2 of Schedule 1 to the Principal Regulations.

Subitem 1229(10) prescribes the subclasses related to the Skilled (Provisional) (Class VC) visa.

The amendment removes references to the Subclass 487 (Skilled – Regional Sponsored) and prescribes that Subclass 485 (Skilled – Graduate) is the only subclass of the Class VC visa.

The purpose of this amendment in combination with items [21] and [22] of this Schedule is to repeal the Subclass 487 (Skilled – Regional Sponsored) visa.

Item [24] - Schedule 2, subparagraph 010.611(3B)(i)

This item substitutes subparagraph 010.611(3B)(i) of Part 010 of Schedule 2 to the Principal Regulations.

Subparagraph 010.611(3B)(i) is inserted by item [79] of Schedule 1 to this Regulation. It prescribes that nil conditions apply to a Bridging A visa granted on the basis of a valid application for a Skilled (Residence) (Class VB) visa in certain circumstances.

New subparagraph 010.611(3B)(i) applies to all applications for a Skilled (Residence) (Class VB) visa. This amendment is consequential to amendments made by item [11] – [13] of this Schedule to remove all but one circumstance in which an application for a Class VB visa can be made.

Item [25] - Schedule 2, subparagraph 020.611(4)(i)

This item substitutes subparagraph 020.611(4)(i) of Part 020 of Schedule 2 to the Principal Regulations.

Subparagraph 020.611(4)(i) is inserted by item [80] of Schedule 1 to this Regulation. It prescribes that nil conditions apply to a Bridging B visa granted on the basis of a valid application for a Skilled (Residence) (Class VB) visa in certain circumstances.

New subparagraph 020.611(4)(i) applies to all applications for a Skilled (Residence) (Class VB) visa. This amendment is consequential to amendments made by item [11] – [13] of this Schedule to remove all but one circumstance in which an application for a Class VB visa can be made.

Item [26] - Schedule 2, Parts 119, 120, 121, 175, 176, 475, 487, 845, 846, 855, 856, 857, 885 and 886

This item omits Parts 119, 120, 121, 175, 176, 475, 487, 845, 846, 855, 856, 857, 885 and 886 of Schedule 2 to the Principal Regulations.

Part 119 prescribes the criteria for the grant of a Subclass 119 (Regional Sponsored Migration Scheme) visa. Amendments made by item [50] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 120 prescribes the criteria for the grant of a Subclass 120 (Labour Agreement) visa. Amendments made by item [54] to Schedule 1 of this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 121 prescribes the criteria for the grant of a Subclass 121 (Employer Nomination) visa. Amendments made by item [50] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 175 prescribes the criteria for the grant of a Subclass 175 (Skilled - Independent) visa. Amendments made by item [57] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 176 prescribes the criteria for the grant of a Subclass 176 (Skilled - Sponsored) visa. Amendments made by item [57] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 475 prescribes the criteria for the grant of a Subclass 475 (Skilled – Regional Sponsored) visa. Amendments made by item [72] to Schedule 1 of this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 487 prescribes the criteria for the grant of a Subclass 487 (Skilled – Regional Sponsored) visa. Amendments made by item [73] to Schedule 1 of this Regulation provide that applications for these visas must have been made before 1 January 2013.

Part 845 prescribes the criteria for the grant of a Subclass 845 (Established Business in Australia) visa. Amendments made by item [46] to Schedule 1 of this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 846 prescribes the criteria for the grant of a Subclass 846 (State/Territory Sponsored Regional Established Business in Australia) visa. Amendments made by item [46] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 855 prescribes the criteria for the grant of a Subclass 855 (Labour Agreement) visa. Amendments made by item [55] to Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 856 prescribes the criteria for the grant of a Subclass 856 (Employer Nomination) visa. Amendments made by item [51] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 857 prescribes the criteria for the grant of a Subclass 857 (Regional Sponsored Migration Scheme) visa. Amendments made by item [51] to Schedule 1 of this Regulation provide that applications for these visas must have been made before 1 July 2012.

Part 885 prescribes the criteria for the grant of a Subclass 885 (Skilled - Independent) visa. Amendments made by item [59] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 January 2013.

Part 886 prescribes the criteria for the grant of a Subclass 886 (Skilled - Sponsored) visa. Amendments made by item [59] of Schedule 1 to this Regulation provide that applications for these visas must have been made before 1 January 2013.

This amendment is consequential to the repeal of the related provisions of Schedule 1 to the Principal Regulations by various items in this Schedule.

Item [27] - Schedules 6B and 6C

This item omits Schedules 6B and 6C to the Principal Regulations.

This amendment is consequential to the repeal of regulations 2.26AA and 2.26AB by item [7] of this Schedule.

Item [28] - Schedule 7

This item omits Schedule 7 from the Principal Regulation on 1 July 2013.

This omission is consequential to items [8] and [26] of Schedule 2 to this Regulation, which omits item 1104A to Schedule 1 and Parts 845 and 846 from the Principal Regulations.

These amendments omit the only visa subclasses which apply the business skills points test.

Item [29] – Schedule 13, after item 101

This item inserts new item 102 (Operation of Schedule 2) in Schedule 13 of the Principal Regulation (inserted by item [43] of Schedule 1 to this Regulation). Item 102 applies to the amendments to the Principal Regulations by Schedule 2 to this Regulation made on 1 July 2013.

Subitem 102(1) provides that the amendments made by Schedule 1 to this Regulation applies only in relation to an application for a visa that was made on or after 1 July 2013. The effect of this subitem is that the amendments made by Schedule 2 to this Regulation applies only to prospective applications and that the Principal Regulations as in force before 1 July 2013 will continue to apply to applications made before that date.

Subitem 102(2) provides that repeals of provisions of the Principal Regulations by Schedule 2 of this Regulation applies in relation to visa applications taken to have been made before or after 1 July 2013 in accordance with regulation 2.08 (Application by newborn child), regulation 2.08A (Addition of certain applicants to certain applications for permanent visas) and regulation 2.08B (Addition of certain dependent children to certain applications for temporary visas). This provision allows a newborn child, spouse or other dependant of a person applying before 1 July 2013 for certain visas to be repealed by Schedule 2 to this Regulation on 1 July 2013 to make a combined application with that person at any time before a decision is made on the application.