

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 238**

Issued by the Minister for Immigration and Citizenship

*Migration Act 1958*

*Migration Legislation Amendment Regulation 2012 (No. 4)*

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 progress the Government's simplification and deregulation agenda by reforming temporary work visas. The Regulation reduces the number of temporary work visa subclasses by 50 per cent and streamlines the requirements for sponsorship, nomination and visa application and grant. In particular, the Regulation amends the Principal Regulations to:

- repeal 12 current temporary work visa subclasses and close related sponsorship classes and nomination requirements;
- introduce three new temporary work visa subclasses with new sponsorship classes and nomination requirements, as follows:
  - Subclass 401 (Temporary Work (Long Stay Activity)), which requires nomination by a long stay activity sponsor and incorporates an Exchange stream (for applicants participating in an exchange of staff), a Sport stream, and a Religious Worker stream;
  - Subclass 402 (Training and Research), which incorporates a Research stream; an Occupational trainee stream which requires nomination by a Training and Research sponsor; and a Professional Development stream which requires nomination by a Professional Development sponsor; and
  - Subclass 403 (Temporary Work (International Relations)) which does not require sponsorship and incorporates streams for applicants covered by an international government agreement or who direct the operations in Australia of certain language institutes; applicants who are to be employed as representatives of certain foreign government agencies or as foreign language teachers in Australian schools; applicants who undertake domestic duties in the households of holders of diplomatic visas; and applicants accorded privileges and immunities.

The Regulation also amends the *Migration Agents Regulations 1998* to make minor consequential amendments.

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. They do not raise any human right issues, or advance the protection of human rights. A copy of the Statement is at Attachment B.

Details of the Regulation are set out in Attachment C.

The Office of Best Practice Regulation (the OBPR) advised that a Regulation Impact Statement (RIS) was required for amendments made by the Regulation. A RIS has been submitted to OBPR. The consultation reference is 12253. The amendments were assessed as having a positive productivity impact. Clients are expected to benefit from a simplified visa structure and there are no significant costs associated with the changes which negatively impact business. A copy of the RIS is at Attachment D.

Consultations were undertaken across Federal and state government agencies during the development of the new temporary work visa framework. The consultation process involved the publication of two discussion papers in 2010: "Creating a simpler framework for temporary and permanent entry to Australia" and "Implementing a simpler framework for temporary residence work visas". Submissions were received from a wide range of affected stakeholders, including peak industry groups, community groups, migration agents and trade unions.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 24 November 2012.

## ATTACHMENT A

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

In addition, the following provisions may apply:

- Subsection 5(1) of the Act, which provides that “member of the family unit” of a person has the meaning given by the regulations;
- 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, which 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 may 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:
  - (a) is outside Australia; or
  - (b) is in immigration clearance; or
  - (c) has been refused immigration clearance and has not subsequently been immigration cleared; or
  - (d) 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) 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
  - (b) 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(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 45A of the Act, which provides that the regulations may prescribe that a non-citizen who makes an application for a visa is liable to pay a visa application charge if, assuming the charges were paid, the application would be a valid visa application;
- Subsection 45B(1) of the Act, which provides that the regulations may prescribe the amount 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 the 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;
- Paragraph 45C(2)(b) of the Act, which provides that the regulations may make provision for the remission, refund or waiver of the visa application charge or an amount of visa application charge;
- 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):
  - (a) the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
  - (b) how an application for a visa of a specified class must be made; and
  - (c) where an application for a visa of a specified class must be made; and
  - (d) where an applicant must be when an application for a visa of a specified class is made;
- Paragraph 116(1)(g) of the Act, which provides that the Minister may cancel a visa if he or she is satisfied that a prescribed ground for cancelling a visa applies to the holder;
- Section 140A of the Act, which provides that Division 3A of Part 2 of the Act applies to visas of a prescribed kind;
- Subsection 140E(1) of the Act, which provides that the Minister must approve a person as a sponsor in relation to one or more classes of sponsor if prescribed criteria are satisfied;
- Subsections 140E(2) of the Act, which provides that the regulations may prescribe classes of sponsor;
- Subsection 140E(3) of the Act, which allows different criteria to be prescribed for different kinds of visa, different classes of sponsor and different classes of person within a class of sponsor;
- Subsections 140F(1) and (2) of the Act, which provide that the regulations may establish a process for the Minister to approve a person as a sponsor, and that different processes may be prescribed for different kinds of visa and different classes of sponsor;
- Subsections 140GA(1) and (3) of the Act, which provide that the regulations may establish a process for the Minister to vary a term of a person's approval as a sponsor, and that different processes and different criteria may be prescribed for different kinds of visa, different kinds of terms and different classes of sponsor;
- Subsection 140GB(2) of the Act, which provides that the Minister must approve an approved sponsor's nomination if prescribed criteria are satisfied;
- Subsection 140GB(3) of the Act, which provides that the regulations may establish a process for the Minister to approve an approved sponsor's nomination;

- Subsection 140GB(4) of the Act, which provides that different criteria and different processes may be prescribed for different kinds of visa and different classes of sponsor;
- Subsection 140H(1) of the Act, which provides that a person who is or was an approved sponsor must satisfy the sponsorship obligations prescribed by the regulations;
- Subsections 140H(4) and (5) of the Act, which provide that the regulations may require a person to satisfy sponsorship obligations in respect of each visa holder sponsored by the person or generally, and that the sponsorship obligations must be satisfied in the manner (if any) and within the period (if any) prescribed by the regulations;
- Subsection 140H(6) of the Act, which provides that different kinds of obligations may be prescribed for different kinds of visa and different classes of sponsor;
- Section 140L of the Act, which provides that the regulations may prescribe the circumstances in which the Minister may, or must, take one or more of the actions in section 140M of the Act, and that different circumstances and different criteria may be prescribed for different kinds of visa and different classes of sponsor;
- Subsection 276(4) of the Act, which provides that a person will not be considered to give immigration assistance in the circumstances prescribed by the regulations;
- Subsection 338(9) of the Act, which provides the regulations may prescribe a decision as a MRT-reviewable decision;
- 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*

### **Migration Legislation Amendment Regulation 2012 (No. 4)**

This Legislative Instrument 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 Legislative Instrument**

The Australian Government announced that as part of its visa simplification and deregulation agenda, the number of temporary work visa subclasses will be reduced by 50 per cent by the end of 2012.

This is achieved by repealing 12 existing temporary work visa subclasses, and amending the *Migration Regulations 1994* (the Regulations) to create five new temporary work visa subclasses as indicated below.

The amendments are primarily to:

- Part 2A of the Regulations in regards to sponsorship and nomination requirements; and
- Schedules 1 and 2 of the Regulations in regards to visa application and assessment requirements.

There are further minor and consequential changes to other parts of the Regulations to support the introduction of the Subclass 401 (Temporary Work (Long Stay Activity)), the Subclass 402 (Training and Research), Subclass 403 (Temporary Work (International Relations)) visas and amendments to the existing Subclass 420 (Entertainment) and Subclass 457 (Business (Long Stay)) visas.

All of these amendments are achieved without any substantial change to existing policy settings or any reduction in existing client entitlements.

#### *The Subclass 401 (Temporary Work (Long Stay Activity)) visa*

The amendments to the Regulations:

- repeal the existing Exchange (Subclass 411) visa, Sport (Subclass 421) visa and Religious Work (Subclass 428) visas;

- establish a single Long Stay Activity sponsorship which captures the current policy settings of the sponsorship and nomination requirements across the Exchange Sponsor, the Religious Worker Sponsor and the Sport Sponsor; and
- establish a single visa subclass, Subclass 401 (Temporary Work (Long Stay Activity)) visa, for visa applicants that consolidate the current Schedule 1 and 2 criteria for temporary stay in Australia of sponsored religious workers, exchange participants and sports participants.

*The Subclass 402 (Training and Research) visa*

The amendments to Regulations:

- repeal the existing Occupational Trainee (Subclass 442) visa, the Visiting Academic (Subclass 419) visa and the Professional Development (Subclass 470) visa;
- establish a single Training and Research sponsorship which captures the current policy settings of the sponsorship and nomination requirements across the Occupational Trainee and Visiting Academic sponsorships;
- remove the current nomination requirement of the existing Visiting Academic Sponsor. This will reduce the regulatory burden and cost on these visiting academic sponsors; and
- establish a single visa subclass, Subclass 402 (Training and Research) visa, for visa applicants that consolidates the current Schedule 1 and 2 criteria for temporary stay in Australia of sponsored professional development participants, occupational trainees and overseas academics participating in Australian research.

*The Subclass 403 (Temporary Work (International Relations)) visa*

The amendments to the Regulations:

- repeal the current Foreign Government Agency sponsorship requirement which reduces the regulatory burden and cost for those agencies;
- repeal the existing Subclass 406 (Government Agreement) visa, the Subclass 415 (Foreign Government Agency) visa, Subclass 426 (Domestic Worker – Diplomatic or Consular) visa, and the Privileges and Immunities provisions currently in the Subclass 456 (Business (Short Stay)) visa and the Subclass 457 (Business (Long Stay)) visa; and
- create the new Subclass 403 (Temporary Work (International Relations)) visa.

*The amended Subclass 420 (Temporary Work (Entertainment)) visa*

Provisions relating to the Subclass 423 will be relocated to other visa subclasses as follows:



- provisions relating to overseas film crew currently in the Subclass 423 (Media and Film Staff) visa will be relocated to the Subclass 420 (Temporary Work (Entertainment)) visa; and
- other provisions currently in the Subclass 423 (Media and Film Staff) visa are provided for in the Subclass 457 (Business (Long Stay)) visa and the Subclass 456 (Business (Short Stay)) visa and will continue to be provided for in the Subclass 456 visa and the Subclass 457 (Temporary Work (Skilled)) visa. The amendments are primarily to Schedules 1 and 2 of the Regulations in regards to visa application and assessment requirements.

#### *The amended Subclass 457 (Temporary Work (Skilled)) visa*

The amendments to the Regulations will:

- repeal the existing Subclass 427 (Domestic Worker (Executive)) visa and the Subclass 422 (Medical Practitioner) visas (the Subclass 457 visa has provided for medical practitioners since 14 September 2009 and the Subclass 422 visa was closed to new primary applicants on 1 July 2010); and
- manage provisions relating to the Subclass 427 visa under the Labour Agreement provisions of the amended Subclass 457 (Temporary Work (Skilled)) visa.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as articulated in the seven core international human rights treaties.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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

## **ATTACHMENT C**

### **Details of the Migration Legislation Amendment Regulation 2012 (No. 4)**

#### **Section 1 Name of Regulation**

This section provides that the title of the Regulation is the *Migration Legislation Amendment Regulation 2012 (No. 4)*.

#### **Section 2 Commencement**

This section provides for the Regulation to commence on 24 November 2012.

#### **Section 3 Amendment of Migration Regulations 1994**

This section provides that Schedules 1 to 4 amend the *Migration Regulations 1994*.

#### **Section 4 Amendment of Migration Agents Regulations 1998**

This section provides that Schedule 5 amends the *Migration Agents Regulations 1998*.

### **Schedule 1 – Amendments of Migration Regulations 1994 (section 3)**

Items [1] – [3] Regulation 1.03, definition of *domestic worker sponsor*, paragraph (b); *exchange sponsor*, paragraph (b); and *foreign government agency sponsor*, paragraph (b)

These items substitute paragraph (b) in the definitions of “domestic worker sponsor”, “exchange sponsor” and “foreign government agency sponsor” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations, and add explanatory notes.

The definition of “domestic worker sponsor” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the domestic worker sponsor class by the Minister under subsection 140E(1) of the Act.

The definition of “exchange sponsor” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the exchange sponsor class by the Minister under subsection 140E(1) of the Act.

The definition of “foreign government agency sponsor” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the foreign government agency sponsor class by the Minister under subsection 140E(1) of the Act.

The amendments made by these items add the qualification that the approval for these classes of sponsor must be on the basis of an application made before 24 November 2012. This reflects the new requirement in regulation 2.60H of the Principal Regulations, inserted by item [56] of this Schedule, and regulations 2.60B and 2.60C of the Principal Regulations, inserted by item [54] of this Schedule, that an application for approval as one of these classes of sponsor must be made before 24 November 2012.

The new notes explain that “approved sponsor” is defined in subsection 5(1) of the Act.

Item [4] Regulation 1.03, definition of *IASS agreement*

This item omits the definition of “IASS agreement” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

The definition of “IASS agreement” currently provides that it means an agreement mentioned in regulation 1.16B.

The amendment is consequential to item [21] which omits regulation 1.16B.

Item [5] Regulation 1.03, definition of *occupational trainee*

This item omits the definition of “occupational trainee” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

The definition provides that “occupational trainee” means a person who is in Australia as the holder of a Subclass 442 (Occupational Trainee) visa. The Subclass 442

(Occupational Trainee) visa is omitted by item [223] of this Schedule and the definition is therefore redundant.

Items [6] – [8] Regulation 1.03, definition of *occupational trainee sponsor*, paragraph (b)

These items substitute paragraph (b) in the definitions of “occupational trainee sponsor”, “religious worker sponsor” and “sport sponsor” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations, and add an explanatory notes.

The definition of “occupational trainee” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the occupational trainee sponsor class by the Minister under subsection 140E(1) of the Act.

The definition of “religious worker sponsor” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the religious worker sponsor class by the Minister under subsection 140E(1) of the Act.

The definition of “sport sponsor” currently provides that the term means a person who is an approved sponsor and is approved as a sponsor in relation to the sport sponsor class by the Minister under subsection 140E(1) of the Act.

These amendments add the qualification that approval for these classes of sponsor must be on the basis of an application made before 24 November 2012. This reflects the new requirements in regulations 2.60G, 2.60H and 2.60I of the Principal Regulations, inserted by item [56] of this Schedule, that an application for approval as an occupational trainees as one of these classes of sponsor must be made before 24 November 2012.

The new notes explain that “approved sponsor” is defined in subsection 5(1) of the Act.

Item [9] Regulation 1.03, definition of *temporary work sponsor*, paragraph (j)

This item substitutes paragraph (j) and add new paragraphs (k) and (l) in the definition of “temporary work sponsor” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

The definition currently provides that any of a range of sponsors approved under subsection 140E of the Act is a “temporary work sponsor”.

The term “temporary work sponsor” is used throughout Part 2A of the Principal Regulations to refer to certain classes of approved sponsor of holders of, or applicants or proposed applicants for, a temporary work visa.

This item adds the new “long stay activity sponsor” class at new paragraph (k) and the new “training and research sponsor” class at new paragraph (l).

Item [10] Regulation 1.03, definition of *visiting academic sponsor*, paragraph (b)

This item substitutes paragraph (b) in the definition of “visiting academic sponsor” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations, and adds an explanatory note.

The definition currently provides that a “visiting academic sponsor” means a person who is an approved sponsor and is approved as a sponsor in relation to the visiting academic sponsor class by the Minister under subsection 140E(1) of the Act.

The amendment adds the qualification that the approval must be on the basis of an application made before 24 November 2012. This reflects the new requirement in regulation 2.60E of the Principal Regulations, inserted by item [55] of this Schedule, that an application for approval as a visiting academic sponsor must be made before 24 November 2012.

The new note explains that “approved sponsor” is defined in subsection 5(1) of the Act.

Item [11] Regulation 1.03

This item inserts a definition of “long stay activity sponsor” and a note in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

This amendment provides that a “long stay activity sponsor” means a person who is an approved sponsor and is approved as a sponsor in relation to the long stay activity sponsor class by the Minister under subsection 140E(1) of the Act. The note advises that “approved sponsor” is defined in subsection 5(1) of the Act.

The long stay activity sponsor class replaces the exchange sponsor, sport sponsor and religious worker sponsor classes which are closed to new applicants from 24 November 2012. The criteria for the new long stay activity sponsor class are set out in item [57] of this Schedule.

Item [12] Regulation 1.03

This item inserts a definition of “Subclass 420 (Entertainment) visa” and an explanatory note in regulation 1.03 in Division 1.2 of Part 1 the Principal Regulations.

The definition provides that “Subclass 420 (Entertainment) visa” includes a Subclass 420 (Temporary Work (Entertainment)) visa. The amendment is consequential to the renaming of the Subclass 420 (Entertainment) visa as the Subclass 420 (Temporary Work (Entertainment)) visa by item [220] of this Schedule.

The purpose of the definition is to ensure that a reference to the Subclass 420 (Entertainment) visa in the Principal Regulations can also be taken to be a reference to the renamed Subclass 420 (Temporary Work (Entertainment)) visa.

The note alerts the reader that amendments made to the Principal Regulations that commenced on 24 November 2012 renamed the Subclass 420 (Entertainment) visa.

### Item [13] Regulation 1.03

This item inserts a definition of “Subclass 420 (Temporary Work (Entertainment)) visa” and an explanatory note in regulation 1.03 in Division 1.2 of Part 1 the Principal Regulations.

The definition provides that “Subclass 420 (Temporary Work (Entertainment)) visa” includes a Subclass 420 (Entertainment) visa. The amendment is consequential to the renaming of the Subclass 420 (Entertainment) visa as the Subclass 420 (Temporary Work (Entertainment)) visa by item [220], below.

The purpose of the definition is to ensure that a reference to the renamed Subclass 420 (Temporary Work (Entertainment)) visa in the Principal Regulations can also be taken to be a reference to the Subclass 420 (Entertainment) visa.

The note alerts the reader that amendments made to the Principal Regulations that commenced on 24 November 2012 renamed the Subclass 420 (Entertainment) visa.

The effect of the new definition of “Subclass 420 (Temporary Work (Entertainment)) visa” and the new definition of “Subclass 420 (Entertainment) visa”, to be inserted by item [12], above, is that the terms are interchangeable when used in the Principal Regulations.

### Item [14] Regulation 1.03

This item inserts a definition of “Subclass 457 (Business (Long Stay)) visa” and an explanatory note in regulation 1.03 in Division 1.2 of Part 1 the Principal Regulations.

The definition provides that “Subclass 457 (Business (Long Stay)) visa” includes a Subclass 457 (Temporary Work (Skilled)) visa. The amendment is consequential to the renaming of the Subclass 457 (Business (Long Stay)) visa as the Subclass 457 (Temporary Work (Skilled)) visa by item [224] of this Schedule.

The purpose of the definition is to ensure that a reference to the Subclass 457 (Business (Long Stay)) visa in the Principal Regulations can also be taken to be a reference to the renamed Subclass 457 (Temporary Work (Skilled)) visa.

The note alerts the reader that amendments made to the Principal Regulations that commenced on 24 November 2012 renamed the Subclass 457 (Business (Long Stay)) visa.

### Item [15] Regulation 1.03

This item inserts a definition of “Subclass 457 (Temporary Work (Skilled)) visa” and an explanatory note in regulation 1.03 in Division 1.2 of Part 1 the Principal Regulations.

The definition provides that “Subclass 457 (Temporary Work (Skilled)) visa” includes a Subclass 457 (Business (Long Stay)) visa.

The purpose of the definition is to ensure that a reference to the renamed Subclass 457 (Temporary Work (Skilled)) visa in the Principal Regulations, can also be taken to be a reference to the Subclass 457 (Business (Long Stay)) visa.

The note alerts the reader that amendments made to the Principal Regulations that commenced on 24 November 2012 renamed the Subclass 457 (Business (Long Stay)) visa.

The effect of the new definition of “Subclass 457 (Temporary Work (Skilled)) visa” and the new definition of “Subclass 457 (Business (Long Stay)) visa”, to be inserted by item [14], above, is that the terms are interchangeable when used in the Principal Regulations.

#### Item [16] Regulation 1.03

This item inserts a definition of “training and research sponsor” and a note in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

This amendment provides that a “training and research sponsor” means a person who is an approved sponsor and is approved as a sponsor in relation to the training and research sponsor class by the Minister under subsection 140E(1) of the Act. The note advises that “approved sponsor” is defined in subsection 5(1) of the Act.

The training and research sponsor class replaces the visiting academic sponsor and the occupational trainee sponsor classes which close to new applicants from 24 November 2012. The criteria for the new training and research sponsor class are set out in item [57] of this Schedule.

#### Items [17] – [20] Subparagraph 1.08(d)(i) ; Subregulation 1.12(10); Paragraph 1.12(11)(a); and Paragraph 1.12(11)(a)

These items amend various provisions in Division 1.2 of Part 1 of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa, by item [224] below.

#### Item [21] Regulation 1.16B

This item omits regulation 1.16B (Invest Australia Supported Skills agreements) in Division 1.3 of Part 1 of the Principal Regulations.

Regulation 1.16B currently provides for agreements between the Minister, the Industry Minister and an overseas organisation, to allow entry of staff members responsible for a significant investment by the organisation. The agreements, called Invest Australia Supported Skills agreements (“IASS agreements”), provide a pathway to the grant of a Subclass 457 visa.

IASS agreements have not been entered into for a number of years and the provisions are therefore redundant.

Items [22] – [24] Paragraphs 1.20(4)(ea) to (ec); Paragraph 1.20(4)(fa); and Paragraph 1.20(4)(h)

These items omit paragraphs 1.20(4)(ea), (eb), (ec) and (fa) and substitute new paragraphs 1.20(4)(ga), (gb), (gc), (gd) and (h) for paragraph 1.20(4)(h) in Division 1.4 of Part 1 of the Principal Regulations.

Regulation 1.20 sets out the sponsorship undertakings that relate to visas that are not prescribed under the Worker Protection framework in Division 3A of Part 2 of the Act. Subregulation 1.20(4) provides that regulation 1.20 does not apply to certain visas.

Paragraph 1.20(4)(ea) refers to the Cultural/Social (Temporary) (Class TE) visa, which is renamed as the “Special Program (Temporary)(Class TE) visa” by item [186] of this Schedule.

Paragraph 1.20(4)(eb) refers to the Domestic Worker (Temporary) (Class TG) visa, and paragraph 1.20(4)(ec) refers to the Educational (Temporary) (Class TH) visa. Both of these visas are omitted by item [187] of this Schedule.

Paragraph 1.20(4)(fa) refers to the Sponsored Training (Temporary) (Class UV) visa which is omitted by item [188] of this Schedule.

The new paragraphs prescribe for the purposes of subregulation 1.20(4):

- the Special Program (Temporary) (Class TE) visa, which is renamed by item [186] of this Schedule;
- the Subclass 401 (Temporary Work (Long Stay Activity)) visa, which is inserted by item [215] of this Schedule;
- the Subclass 402 (Training and Research) visa which is inserted by item [215] of this Schedule; and
- the Subclass 420 (Temporary Work (Entertainment) visa, which is renamed by item [220] of this Schedule.

Paragraph 1.20(4)(h) is amended to refer to the Subclass 457 (Temporary Work (Skilled)) visa consequential to the renaming of this visa by item [224] of this Schedule.

The purpose of these amendments is to exclude temporary work visas inserted or amended by this Regulation from the operation of regulation 1.20, as these visas are subject to the sponsorship requirements and enforceable obligations set out in Part 2A of the Regulations, prescribed under Division 3A of Part 2 of the Act.

Item [25] Paragraph 1.40

This item substitutes regulation 1.40 in Division 1.8 of Part 1 of the Principal Regulations.

Regulation 1.40 defines an “eligible passport” and “principal course”.



Substituted subregulation 1.40(1) replaces the words “Gazette Notice”, with “an instrument in writing”, consistent with the language in the *Legislative Instruments Act 2003*.

Substituted subregulations 1.40(2) and (3) replace references to the Subclass 442 (Occupational Trainee) visa with references to the new Subclass 402 (Training and Research) visa which is inserted by item [215] of this Schedule.

Substituted subregulation 1.40(2) also contains technical drafting changes which result in existing subregulation 1.40(4) being no longer required.

#### Item [26] Regulation 2.07AH

This item amends regulation 2.07AH in Division 2.2 of Part 2 of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, by item [224] below.

#### Item [27] – [28] Paragraphs 2.12F(2B)(a) and (b); and Paragraph 2.12F(2B)(f)

These items omit paragraphs 2.12F(2B)(a) and (b) substitute paragraph 2.12F(2B)(f) with new paragraphs 2.12F(2B)(g), (h), (i) and (j) in Division 2.2A of Part 2 of the Principal Regulations.

Subregulation 2.12F(2B), in conjunction with subparagraph 2.12F(1)(a)(i), currently provides for the refund of the visa application charge for certain temporary work visas in circumstances where the visa application is refused because the visa applicant had not been nominated in an approved nomination or if no nomination was required, did not have an approved sponsor.

The amendments remove the Cultural/Social (Temporary) (Class TE) visa, the Educational (Temporary) (Class TH) visa, and the Subclass 427 (Domestic Worker (Temporary) – Executive) visa from the list of visas eligible for this refund. The amendment is consequential to the renaming of the Class TE visa by item [186] of this Schedule, the repeal of the Class TH visa by item [187] of this Schedule, and the repeal of that the Subclass 427 visa by item [222] of this Schedule.

The new paragraphs inserted by this amendment prescribe for the purposes of subregulation 2.12F(2B):

- the Special Program (Temporary) (Class TE) visa, which is renamed by item [186] of this Schedule;
- the Subclass 401 (Temporary Work (Long Stay Activity)) visa, which is inserted by item [215] of this Schedule;
- the Subclass 402 (Training and Research) visa which is inserted by item [215] of this Schedule; and

- the Subclass 420 (Temporary Work (Entertainment) visa, which is renamed by item [220] of this Schedule.

The purpose of these amendments is to maintain current policy by including temporary work visas inserted or amended by this Regulation, as visas for which the visa application charge may be refunded where a visa application is refused because there was no approved nomination that identifies the applicant, or where no nomination was required, the applicant did not have an approved sponsor.

Item [29] Subparagraph 2.43(1)(ia)(i)

This item substitutes subparagraph 2.43(1)(ia)(i) in Division 2.9 of Part 2 of the Principal Regulations with new subparagraphs 2.43(1)(ia)(i), (ia), (ib) and (ic).

Subparagraph 2.43(1)(ia) in conjunction with subregulation 2.43(1A) prescribes circumstances under which the Minister may cancel a visa for the purposes of paragraph 116(1)(g) of the Act. These regulations provide that, despite the grant of the visa, the Minister may cancel certain visas if satisfied that the visa holder did not have at the time of grant of the visa, or has ceased to have, a genuine intention to stay temporarily in Australia to carry out the work or activity in relation to which the visa was granted or in relation to which they have been nominated.

The new subparagraphs inserted by this amendment prescribes the following new visas for the purposes of paragraph 2.43(1)(ia):

- the Subclass 401 (Temporary Work (Long Stay Activity)) visa;
- the Subclass 402 (Training and Research) visa; and
- the Subclass 403 (Temporary Work (International Relations) visa.

These new visas are inserted in the Principal Regulations by item [215] of this Schedule.

The purpose of this amendment is to maintain current policy by including the visas inserted or amended by this Regulation in the list of visas that may be cancelled if the visa holder did not have, or has ceased to have, a genuine intention to carry out the work or activity in relation to which the visa was granted or in relation to which they have been nominated.

The cancellation ground relating to the work or activity in relation to which the visa holder has been nominated, is not relevant to a person who holds a Subclass 402 visa in the Research stream or the Professional Development stream, or the Subclass 402 visa in the Occupational Trainee stream where the occupational training is provided by the Commonwealth, as these streams do not require the applicant to be identified in a nomination to be eligible for the visa. This provision is also not relevant to the Subclass 403 visa as there is no sponsorship required for this visa. However, the cancellation ground referring to the work or activity in relation to which the visa was granted, is relevant to these visas.

Item [30] – [32] Paragraph 2.43(1)(kb); Paragraph 2.43(1)(l); and Paragraph 2.43(1)(la)

These items amend paragraphs 2.43(1)(kb), 2.43(1)(l) and 2.43(1)(la) in Division 2.9 of Part 2 of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa, by item [224] below.

Item [33] Subparagraph 2.43(1)(lc)(i)

This item substitutes subparagraph 2.43(1)(lc)(i) with new subparagraphs 2.43(1)(lc)(i), (ia) and (ib) in Division 2.9 of Part 2 of the Principal Regulations.

Paragraph 2.43(1)(lc) in conjunction with subregulation 2.43(1B) prescribes circumstances for the purposes of paragraph 116(1)(g) of the Act under which certain visas may be cancelled by the Minister, including where the sponsor’s approval has been cancelled or barred under section 140M of the Act; or the approved sponsor has failed to satisfy a sponsorship obligation.

The new subparagraphs inserted by this amendment prescribe for the purposes of paragraph 2.43(1)(lc), the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa, in addition to the Subclass 411 (Exchange) visa prescribed by current subparagraph 2.43(1)(lc)(i). These new visas are inserted in the Principal Regulations by item [215] of this Schedule.

The purpose of this amendment is to maintain current policy by including temporary work visas inserted or amended by this Regulation, in the list of visas that may be cancelled on the grounds set out in subregulation 2.43(1B).

Item [34] Subparagraph 2.43(1)(ld)(i)

This item substitutes subparagraph 2.43(1)(ld)(i) with new subparagraphs 2.43(1)(ld)(i), (ia) and (ib) in Division 2.9 of Part 2 of the Principal Regulations.

Paragraph 2.43(1)(ld) provides that certain visas may be cancelled if the holder is a “secondary sponsored person” who has not been listed in the latest nomination in which the “primary sponsored person” is identified. One reason a secondary sponsored person may not be listed in the nomination is that the secondary sponsored person no longer wishes to stay in Australia with the primary sponsored person. The prescribed cancellation ground allows the visa to be cancelled to ensure that an approved sponsor is not subject to obligations in relation to that secondary sponsored person.

The new subparagraphs inserted by this amendment prescribe for the purposes of paragraph 2.43(1)(ld), the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa. These new visas are inserted in the Principal Regulations by item [215] of this Schedule.

The purpose of this amendment is to maintain current policy by including temporary work visas inserted or amended by this Regulation in the list of visas that may be held by a secondary sponsored person which may be cancelled if that person is not listed on the latest nomination in which the related primary sponsored person is identified.

Item [35] – [36] Subparagraph 2.43(1)(ld)(ix); and Subparagraph 2.43(1)(le)(iii)

These items amend subparagraph 2.43(1)(ld)(ix) and subparagraph 2.43(1)(le)(iii) in Division 2.9 of Part 2 of the Principal Regulations, to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [37] Paragraph 2.43(1B)(b)

This item omits paragraph 2.43(1B)(b) from Division 2.9 of Part 2 of the Principal Regulations.

Paragraph 2.43(1B)(b) relates to approved sponsors who are a party to a work agreement and provides, in conjunction with paragraph 2.43(1)(lc), that a ground for cancellation of certain temporary work visas is that the work agreement has been terminated or has ceased. The Subclass 421 (Sport) and Subclass 428 (Religious Worker) visas are the only two visas to which this cancellation ground applies, as currently they are the only two visas which include provision for work agreements.

The omission of paragraph 2.43(1B)(b) is consequential to items [90] and [105] of this Schedule, which remove provisions relating to work agreements for sporting or religious worker activities, making paragraph 2.43(1B)(b) redundant. The work agreement provisions have not been used since their introduction on 14 September 2009.

Item [38] Paragraph 2.56(a)

This item substitutes paragraph 2.56(a) with new paragraphs 2.56(a), (aa) and (ab) in Division 2.11 of Part 2A of the Principal Regulations.

Regulation 2.56 provides that Division 3A of Part 2 of the Act, which relates to sponsorship, applies to the visas set out in the regulation.

The new paragraphs inserted in regulation 2.56 by this amendment prescribe the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa, for the purposes of section 140A of the Act as visas to which Division 3A of Part 2 of the Act applies. These visas are inserted in the Principal Regulations by item [215] of this Schedule.

The purpose of this amendment is to maintain current policy by including temporary work visas inserted or amended by this Regulation in the “Worker Protection” framework under Division 3A of Part 2 of the Act.

Item [39] Paragraph 2.56(k)

This item substitutes paragraph 2.56(k) in Division 2.11 of Part 2A of the Principal Regulations to replace the current reference to “the Subclass 457 (Business (Long Stay)) visa” with a reference to “the Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [40] Subregulation 2.57(1), definition of *foreign government agency*, paragraph (c)

This item substitutes paragraph (c) in the definition of “foreign government agency” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

The purpose of the amended provision is to clarify that to come within the definition of “foreign government agency” for the purposes of Part 2A of the Principal Regulations, an organisation must be conducted under the official auspices of an international organisation recognised by Australia, and be operating in Australia.

The amendment aligns paragraph (c) with paragraphs (a) and (b) of the definition, which requires that a relevant organisation or mission must be “operating in Australia”.

Item [41] Subregulation 2.57(1), definition of *overseas employer*

This item substitutes the definition of “overseas employer” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

Consequential to the repeal of the Sponsored Training (Temporary) (Class UV) visa by item [188] of this Schedule, and the creation of the Training and Research (Class GC) visa as its replacement by item [206] of this Schedule, the amended definition replaces the reference to the “Sponsored Training (Temporary) (Class UV) visa” with a reference to the “Training and Research (Class GC) visa”.

The amendments also remove the requirement for an overseas employer to agree for the professional development sponsor to lodge a visa application on behalf of the person they employ. This amendment is consistent with the requirements to make an application for a Class GC visa, in item [206] of this Schedule. Unlike the Class UV visa, there is no requirement for the new visa to be lodged by the professional development sponsor on behalf of the visa applicant.

Item [42] Subregulation 2.57(1), definition of *primary sponsored person*, sub-subparagraph (b)(i)(A)

This item substitutes sub-subparagraph (b)(i)(A) of the definition of “primary sponsored person” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

Paragraph (b) of the definition of “primary sponsored person” relates to parties, or former parties, to a work agreement (other than a Minister). The amendment removes

references to a person who holds a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa from paragraph (b)(i)(A).

The amendment is consequential to items [90] and [105] of this Schedule, which removes provisions relating to work agreements for sporting or religious worker activities. These provisions have not been used since being introduced on 14 September 2009.

The amendment also reflects the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [43] Subregulation 2.57(1), definition of *primary sponsored person*, sub-subparagraph (b)(ii)(C)

This item substitutes sub-subparagraph (b)(ii)(C) of the definition of “primary sponsored person” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

Paragraph (b) of the definition of “primary sponsored person” relates to parties, or former parties, to a work agreement (other than a Minister). The amendment removes references to a person whose last substantive visa was a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa from paragraph (b)(ii)(C).

The amendment is consequential to items [90] and [105] of this Schedule, which removes provisions relating to work agreements for sporting or religious worker activities. These provisions have not been used since being introduced on 14 September 2009.

The amendment also reflects the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [44] Subregulation 2.57(1), definition of *professional development agreement*

This item substitutes new definition of “professional development agreement” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

The current definition of “professional development agreement” refers to an agreement that meets the requirements mentioned in subregulation 2.60(2). As a consequence of amendments made to regulation 2.60 by item [53] of this Schedule, this cross reference is no longer appropriate.

The substituted definition provides that a “professional development agreement” is a written agreement between the person applying for approval as a professional development sponsor and an overseas employer of the person who intends to be the primary visa applicant. This reflects the requirements relating to the parties to a professional development agreement as currently set out at paragraph 2.60(2)(a).

Item [45] Subregulation 2.57(1), definition of *professional development program*

This item amends the definition of “professional development program” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

The amendment replaces the words “subregulation 2.60(3)” with “subregulation 2.60(2)”.

The amendment is consequential to amendments to regulation 2.60 by item [53] of this Schedule, which prescribe the requirements for a professional development program in subregulation 2.60(2) and omit subregulation 2.60(3).

Item [46] – [49] Subregulation 2.57(1), definition of *secondary sponsored person*, sub-subparagraph (b)(i)(A); sub-subparagraph (b)(ii)(A); sub-subparagraph (b)(iii)(C); and sub-subparagraph (b)(iv)(C)

This item substitutes sub-subparagraph (b)(i)(A), sub-subparagraph (b)(ii)(A), sub-subparagraph (b)(iii)(C) and sub-subparagraph (b)(iv)(C) of the definition of “secondary sponsored person” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

Paragraph (b) of the definition of “secondary sponsored person” relates to parties, or former parties, to a work agreement (other than a Minister). The amendment removes references to:

- a person who holds a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa;
- a person who is taken, under section 78 of the Act, to have been granted a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa;
- a person whose last substantive visa was a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa granted on the basis of satisfying the secondary criteria; and
- a person whose last substantive visa was a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa.

These amendments are consequential to items [90] and [105] of this Schedule, which remove provisions relating to work agreements for sporting or religious worker activities that have not been used since being introduced on 14 September 2009.

These amendments also reflect the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [50] Subregulation 2.57(1), definition of *sporting organisation*

This item substitutes a new definition of “sporting organisation” in subregulation 2.57(1) in Division 2.11 of Part 2A of the Principal Regulations.

The current definition provides that for the purposes of Part 2A of the Principal Regulations, “sporting organisation” means an Australian organisation that administers or promotes sport or sporting events. The new definition additionally provides that a “sporting organisation” may mean a government agency or a foreign government agency that administers or promotes sport or sporting events. “Government agency” and “foreign government agency” are defined in subregulation 2.57(1).

The purpose of this amendment is to provide that to be a “sporting organisation” and qualify to meet the criterion for approval as a long stay activity sponsor, a government agency or a foreign government agency must have a level of involvement with administering or promoting sport or sporting events.

Item [51] Paragraph 2.58(l)

This item substitutes paragraph 2.58(l) and add new paragraphs 2.58(m) and (n) in Division 2.12 of Part 2A of the Principal Regulations.

Regulation 2.58 prescribes the classes of sponsor in relation to which a person may be approved as a sponsor for subsection 140E(2) of the Act.

New paragraph 2.58(m) refers to the new long stay activity sponsor. New paragraph 2.58(n) refers to the new training and research sponsor.

The long stay activity sponsor class replaces the current exchange, sport and religious worker sponsor classes. The training and research sponsor class replaces the current occupational trainee and visiting academic sponsor classes.

The purpose of this amendment is to maintain current policy by including temporary work visas inserted or amended by this Regulation in the list of classes of sponsor for subsection 140E(2) of the Act.

Item [52] Paragraph 2.59(h)

This item amends paragraph 2.59(h) in Division 2.13 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [53] Regulation 2.60

This item substitutes regulation 2.60 in Division 2.13 of Part 2A of the Principal Regulations.

Regulation 2.60 sets out the criteria for approval as a professional development sponsor. The professional development sponsor class currently relates to the Subclass 470 (Professional Development) visa, which is repealed on 24 November 2012 by item [245] of this Schedule. The professional development sponsor class is retained for the Professional Development stream of the Subclass 402 (Training and Research) visa which is created by item [215] of this Schedule.

The substituted regulation 2.60 streamlines and simplifies the requirements for approval as a professional development sponsor.

Paragraph 2.60(1)(a) provides that the Minister must be satisfied that the applicant has applied for approval as a professional development sponsor in accordance with the process set out in regulation 2.61. This change removes any uncertainty as to whether



the process set out in regulation 2.61 can be enforced in relation to professional development sponsors.

Paragraph 2.60(1)(b) provides that the Minister must be satisfied that the applicant for approval as a professional development sponsor is:

- an Australian organisation that has operated in Australia continuously for a period of 12 months immediately prior to making the application for approval as a professional development sponsor; or
- an Australian organisation that has been approved by the Minister for the purpose of this paragraph; or
- a government agency.

Paragraph 2.60(1)(c) provides that the applicant must be a party to a professional development agreement which is in force at the time of the Minister's consideration of the application; and that the Minister must be satisfied that the applicant has completed approved form 1402A in accordance with the instructions provided. The intention of this provision is that the requirements of the professional development agreement are to be set out in the approved form 1402A, rather than in the Principal Regulations.

Paragraphs 2.60(1)(d) to (g) mirror requirements currently set out in paragraphs 2.60(1)(c), (d), (e) and (f).

Paragraph 2.60(1)(h) expands the existing provision in relation to adverse information, allowing the Minister to consider any adverse information known to Immigration about the overseas employer of the person who is intended to be the primary sponsored person. The changes to paragraph 2.60(1)(h) make it unnecessary to continue to refer separately to the overseas employer's record of compliance with immigration laws, and existing paragraph 2.60(1)(g) is therefore not replicated in the substituted provision.

The requirements that a professional development program must meet, currently set out in subregulation 2.60(3), are in the substituted subregulation 2.60(2).

#### Item [54] Regulations 2.60B and 2.60C

This item substitutes regulations 2.60B and 2.60C in Division 2.13 of Part 2A of the Principal Regulations.

Regulation 2.60B sets out the criterion for approval as an exchange sponsor. The regulation requires that an application for approval as an exchange sponsor must be made before 24 November 2012. The exchange sponsor class is replaced on 24 November 2012 by the new long stay activity sponsor class, the criteria for which are set out in item [57] of this Schedule.

Regulation 2.60C sets out the criterion for approval as a foreign government agency sponsor. The amendment requires that an application for approval as a foreign government agency sponsor must be made before 24 November 2012.

A foreign government agency sponsor is currently able to nominate a holder of, or an applicant or proposed applicant for, a Subclass 415 (Foreign Government Agency) visa, which is repealed by item [218] of this Schedule. This class of sponsor is not replaced by this Regulation as there is no sponsorship requirement for the new Subclass 403 (Temporary Work (International Relations)) visa, which caters for applicants who are to be employed as representatives of certain foreign government agencies.

Item [55] Regulation 2.60E

This item substitutes regulation 2.60E in Division 2.13 of Part 2A of the Principal Regulations.

Regulation 2.60E sets out the criterion for approval as a visiting academic sponsor. The amendment requires that an application for approval as a visiting academic sponsor must be made before 24 November 2012. The visiting academic sponsor class is replaced from 24 November 2012 by the new training and research sponsor class, the criteria for which are set out in item [57] of this Schedule.

Item [56] Regulation 2.60G to 2.60J

This item substitutes regulations 2.60G, 2.60H, 2.60I and 2.60J in Division 2.13 of Part 2A of the Principal Regulations.

These regulations set out the criteria for approval as a sport sponsor, a domestic worker sponsor, a religious worker sponsor and an occupational trainee sponsor.

The amendments require that an application for approval as a sport sponsor, a domestic worker sponsor, a religious worker sponsor or an occupational trainee sponsor must be made before 24 November 2012.

The sport sponsor class (regulation 2.60G), which is currently relevant to the Subclass 421 (Sport) visa, is replaced from 24 November 2012 by the long stay activity sponsor class, the criteria for which are set out at item [57] of this Schedule.

The domestic worker sponsor class (regulation 2.60H) is currently relevant to the Subclass 427 (Domestic Worker (Executive)) visa. From 24 November 2012, this sponsor class is redundant because the Subclass 427 visa is repealed by item [222] of this Schedule. The Subclass 427 visa, which provides for a very small number of visa applicants, will be accommodated in the Subclass 457 (Temporary Work (Skilled)) visa (as renamed by item [224] of this Schedule) from that date.

The religious worker sponsor class (regulation 2.60I), which is currently relevant to the Subclass 428 (Religious Worker) visa, is replaced on 24 November 2012 by the long stay activity sponsor class, the criteria for which are set out at item [57] of this Schedule).

The occupational trainee sponsor class (regulation 2.60J), which is currently relevant to the Subclass 442 (Occupational Trainee) visa, is replaced on 24 November 2012 by the training and research sponsor class, the criteria for which are set out at item [57] of this Schedule.

Item [57] After regulation 2.60K

This item inserts new regulations 2.60L and 2.60M in Division 2.13 of Part 2A of the Principal Regulations.

New regulation 2.60L sets out the criteria for approval as a long stay activity sponsor. The new long stay activity sponsor class replaces the current exchange sponsor class, sport sponsor class and religious worker sponsor class, which are closed to new applications from 24 November 2012 by items [54] and [56] of this Schedule. An applicant for approval as a long stay activity sponsor must meet the criteria prescribed in one of paragraphs 2.60L(2)(a) to (e), which reflect the criteria currently set out in regulations 2.60B, 2.60G and 2.60I for approval as an exchange sponsor, sport sponsor or religious worker sponsor.

New regulation 2.60L also:

- utilises the new definition of “sporting organisation” in item [50] to clarify that a government agency or a foreign government agency, as well as an Australian organisation, must “administer or promote sport or sporting events” in order to be eligible for approval as a long stay activity sponsor; and
- clarifies the policy intention that an Australian organisation, government agency or foreign government agency must have an agreement with an overseas organisation relating to the exchange of staff to be approved as a long stay activity sponsor. The purpose of this amendment is to ensure that a sponsor is not approved on the basis of broad criteria only to fail at the later nomination stage.

A long stay activity sponsor is able to nominate an occupation or activity in relation to an applicant or proposed applicant for, or holder of, a visa as follows:

- a long stay activity sponsor that is approved as a “sporting organisation” on the basis of paragraph 2.60L(2)(a) is able to nominate a sporting activity in relation to a Subclass 401 (Temporary Work (Long Stay Activity)) visa applicant, proposed applicant or holder in accordance with new subregulation 2.72J(4) inserted by item [119] of this Schedule;
- a long stay activity sponsor that is approved as a “religious institution” on the basis of paragraph 2.60L(2)(b) is able to nominate a religious activity in relation to a Subclass 401 visa applicant, proposed applicant or holder in accordance with new subregulation 2.72J(5) inserted by item [119] of this Schedule;
- a long stay activity sponsor that is approved as a party to an exchange agreement on the basis of paragraph 2.60L(2)(c), (d) or (e) is able to nominate an exchange activity in relation to a Subclass 401 visa applicant, proposed applicant or holder in accordance with new subregulation 2.72J(3) inserted by item [119] of this Schedule; and

- a long stay activity sponsor is also able to nominate a sporting activity, a religious activity or an exchange in relation to an applicant for, or holder of, a Subclass 411 (Exchange) visa, a Subclass 421 (Sport) visa or a Subclass 428 (Religious Worker) visa, as relevant, in accordance with regulation 2.72B, 2.72E or 2.72H as amended by this Schedule.

Although a person is required to meet the criteria in only one of paragraphs 2.60L(2)(a) to (e) for approval as a long stay activity sponsor, it is possible that a person may meet more than one of these criteria. For example, it is possible that a person could be both a sporting organisation and a religious institution and therefore able to make nominations in relation to both sporting and religious activities.

New regulation 2.60M sets out the criteria for approval as a training and research sponsor. The new training and research sponsor class replaces the current visiting academic sponsor class and the occupational trainee sponsor class, which are closed to new applications from 24 November 2012 by items [55] and [56] of this Schedule.

An applicant for approval as a training and research sponsor must meet the criteria prescribed in one of paragraphs 2.60M(2)(a) to (c) and one of paragraphs 2.60M(3)(a) or (b), which reflect the criteria currently set out in regulations 2.60E and 2.60J for approval as visiting academic sponsor or an occupational trainee sponsor.

A training and research sponsor is able to nominate an occupation, program or activity in relation to an applicant or proposed applicant for, or holder of, a visa as follows:

- a training and research sponsor that is intending to engage in occupational training is able to nominate an occupational training program in relation to a Subclass 402 (Training and Research) visa applicant, proposed applicant or holder in accordance with regulation 2.72I as amended by items [113] to [118] of this Schedule. Where the occupational training is to be provided by the Commonwealth, a nomination is not required and a training and research sponsor is required to agree in writing to be the approved sponsor of a Subclass 402 visa applicant;
- a training and research sponsor that is a tertiary or research institution is able to agree in writing to be the approved sponsor of an applicant or proposed applicant for a Subclass 402 visa in the Research stream, with no need for a nomination; and
- a training and research sponsor is also able to nominate an occupational training program in relation to an applicant for, or holder of, a Subclass 442 (Occupational Training) visa in accordance with regulation 2.72I as amended by this Schedule.

Although a person is required to meet only one of paragraphs 2.60M(3)(a) or (b), it is possible that a person may meet more than one of these criteria. For example, it is possible that a person could be a tertiary or research institution that is intending to engage in occupational training, and therefore able to make nominations in relation to occupational training programs, or agree to be the approved sponsor of applicants or proposed applicants for a Subclass 402 visa in the Research stream.

#### Item [58] Subregulation 2.61(2), table

This item substitutes the table at subregulation 2.61(2) in Division 2.14 of Part 2A of the Principal Regulations.

The table at subregulation 2.61(2) sets out the approved form and the application fee applicable to applications for approval as class of sponsor listed in the table.

The substituted table includes references to the new classes of sponsor which are inserted in the Principal Regulations by this Schedule:

- item 5 prescribes that for the long stay activity sponsor class the approved form is 1401S and the application fee is \$420; and
- item 6 prescribes that for the training and research sponsor class the approved form is 1402S and the application fee is \$420.

The substituted table also removes current item 5 of the table which applies to a “temporary work sponsor (other than a superyacht crew sponsor)” and creates separate provisions at items 7 and 8 of the table to provide for applications for approval as an entertainment sponsor or a special program sponsor, with new forms, 1420S and 1416S respectively, and no change to the current application fee of \$420.

The effect of this amendment is to remove the ability to apply for approval as an exchange sponsor, foreign government agency sponsor, visiting academic sponsor, sport sponsor, domestic worker sponsor, religious worker sponsor or occupational trainee sponsor from 24 November 2012.

The only change to the requirements for making an application for approval as a professional development sponsor set out at items 3 and 4 is to the form, which is now 1402S.

There is no change to the application requirements for approval as a superyacht crew sponsor, which have been relocated to item 9 of the table.

#### Item [59] Regulation 2.65

This item substitutes new regulation 2.65 and insert a note in Division 2.16 of Part 2A of the Principal Regulations.

Regulation 2.65 provides that Division 2.16 (Variation of terms of approval of sponsorship) applies to certain classes of sponsor.

New regulation 2.65 provides that Division 2.16 applies to an approval as a standard business sponsor, or a temporary work sponsor who is not an exchange sponsor, a foreign government agency sponsor, a sport sponsor, a domestic worker sponsor, a religious worker sponsor, an occupational trainee sponsor, or a visiting academic sponsor.

The note advises that amendments of the Principal Regulations that commenced on 24 November 2012 closed the seven excluded classes of sponsorship, and that the terms of an approval as one of those sponsors are no longer able to be varied.

Current regulation 2.67 provides that the duration of approval as a standard business sponsor or a temporary work sponsor is a term of approval that may be varied. The effect of paragraph 2.60A(b) is that a temporary work sponsor must apply to vary the duration of the approval under Division 2.16 of Part 2A if they wish to extend the sponsorship, rather than applying again for approval as the same class of sponsor. However, the criteria for extending the duration of approval as a temporary work sponsor are currently set out in regulation 2.68A and are substantively the same as those that must initially be met to be approved as a sponsor of that class. The fee and application process are also the same.

The effect of new regulation 2.65 is that from 24 November 2012, sponsors in the seven excluded classes can no longer make an application to vary the duration of the sponsorship. Instead, sponsors in those classes who wish to make further nominations or agree in writing to sponsor further visa applicants or proposed applicants, must apply for approval in the appropriate new sponsor class.

As the foreign government agency sponsor class and domestic worker sponsor class are no longer relevant to a visa, there is no need for the duration of approval as one of those classes of sponsor to be extended.

Existing sponsors who need to reapply as a long stay activity sponsor or training and research sponsor are not be disadvantaged by this amendment because the fee, application process and criteria for applying for approval are substantively the same as if an application for a variation of the terms of the old class of sponsorship had been made.

#### Item [60] Regulation 2.66A, heading

This item substitutes a new heading for regulation 2.66A in Division 2.16 of Part 2A of the Principal Regulations.

The new heading is “Process to apply for variation of terms of approval as certain temporary work sponsors” and is consequential to item [59] of this Schedule which has the effect that not all temporary work sponsors can apply for variation of the terms of an approval.

#### Item [61] Subregulation 2.66A(1)

This item substitutes subregulation 2.66A(1) in Division 2.16 of Part 2A of the Principal Regulations.

The subregulation specifies the approved forms for making an application for a variation of a term of approval as a long stay activity sponsor, a training and research sponsor, an entertainment sponsor, or a special program sponsor. The approved forms are the same as those required to apply for an initial approval as the relevant class of sponsor.

Items [62] – [69] Paragraph 2.68(i); Regulation 2.72, heading; Subregulation 2.72(1); Subregulation 2.72(6); Subparagraph 2.72(7A)(a)(i); Subparagraph 2.72(7A)(a)(ii); Subparagraph 2.72(7A)(b)(i); and Subparagraph 2.72(7A)(b)(iii)

These items make amendments to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa” in paragraph 2.68(i) and regulation 2.72 of Subdivision 2.17 of Part 2 of the Principal Regulations.

These amendments are consequential to the renaming of the Subclass 457 visa, which was effected by item [224] of this Schedule.

Item [70] Subregulation 2.72A(1)

This item substitutes a new subregulation 2.72A(1) in Division 2.17 of Part 2A of the Principal Regulations.

New subregulation 2.72A(1) provides that regulation 2.72A, which relates to the criteria for approval of a nomination for various visas, applies to an approved sponsor who has nominated an occupation, a program or an activity in relation to a visa and a person, as set out in the table.

The effect of this amendment is to provide that regulation 2.72A applies to:

- applicants and proposed applicants for, and holders of, the new Subclass 401 (Temporary Work (Long Stay Activity)) visa; the new Subclass 402 (Training and Research) visa; and the renamed Subclass 420 (Temporary Work (Entertainment)) visa;
- applicants for, and holders of, a Subclass 411 (Exchange) visa, a Subclass 421 (Sport) visa, a Subclass 428 (Religious Worker) visa and a Subclass 442 (Occupational Trainee) visa, where the applicant applied for the visa before 24 November 2012. A proposed applicant for one of these visas could no longer be nominated as these visas were repealed by this Schedule;
- applicants only for a Subclass 419 (Visiting Academic) visa, a Subclass 423 (Media and Film Staff) visa and a Subclass 427 (Domestic Worker (Temporary) – Executive) visa, where application was made before 24 November 2012. A proposed applicant for one of these visas could no longer be nominated as these visas are repealed by this Schedule.

A holder of a Subclass 419, Subclass 423 or Subclass 427 visa is no longer able to be nominated after 24 November 2012, with the effect that the holder must stay with their current approved sponsor or apply for a new visa from that date.

In the case of the Subclass 419 visa, the nomination stage for that cohort of applicants is removed from 24 November 2012, as reflected in the requirements for the new Subclass 402 visa in the Research stream.

In the case of the Subclass 423 visa the intention is to require the visa holder to instead apply for a Subclass 420 visa if they wish to change approved sponsors, to aid the transition process to the Subclass 420 visa for this group of applicants.

In the case of the Subclass 427 visa, visa holders will not be able to change their sponsor from 24 November 2012. Affected visa holders have the option of applying for a Subclass 457 (Temporary Work (Skilled)) visa under the labour agreement provisions.

Item [71] Subregulation 2.72A(3)

This item substitutes subregulation 2.72A(3) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72A(3) currently provides that a person must make the nomination in accordance with the process set out in either regulation 2.73A, 2.73B or 2.73C, depending on the temporary work visa to which the nomination relates.

New paragraphs 2.72A(3)(a) and (b) provide that a nomination of an occupation or activity in relation to a holder of, or an applicant or proposed applicant for, a Subclass 420 (Temporary Work (Entertainment)) visa, or an applicant for a Subclass 423 (Media and Film Staff) visa, must be made in accordance with regulation 2.73B.

New paragraph 2.72A(3)(c) provides that a nomination of an occupation or activity in relation to a holder of, or an applicant for, a Subclass 421 (Sport) visa must be made in accordance with regulation 2.73C.

New paragraph 2.72A(3)(d) provides that a nomination of an occupation, a program or an activity must be made in accordance with regulation 2.73A, if the nomination is in relation to a visa and a person as set out in the table. The process in regulation 2.73A applies to nominations in relation to:

- a holder of, or an applicant or proposed applicant for, the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the Subclass 402 (Training and Research) visa;
- a holder of, or an applicant for those visas which are closed to new applications on 24 November 2012, but for which nomination requirements are ongoing;
- an applicant for those visas which are closed to new applications on 24 November 2012, but for which nomination requirements are not ongoing.

Item [72] Paragraph 2.72B(1)(a)

This item substitutes paragraph 2.72B(1)(a) in Division 2.17 of Part 2A of the Principal Regulations.

Currently, regulation 2.72B sets out the criteria for approval of a nomination relating to a Subclass 411 (Exchange) visa. New paragraph 2.72B(1)(a) provides that regulation 2.72B applies to a person who is an exchange sponsor or a long stay activity sponsor.

The purpose of the amendment is to ensure that a long stay activity sponsor, as well as an approved exchange sponsor, can make a nomination in relation to a Subclass 411 (Exchange) visa holder or applicant who applied before 24 November 2012. The



amendment allows an applicant who applied for a Subclass 411 visa before 24 November 2012 to be nominated by an existing exchange sponsor or a long stay activity sponsor after that date. This amendment also allows a Subclass 411 visa holder to transfer to either an existing exchange sponsor or a long stay activity sponsor after 24 November 2012, without the need to apply for a new visa.

Item [73] Paragraph 2.72B(1)(b)

This item omits the words “or a proposed applicant” from paragraph 2.72B(1)(b) in Division 2.17 of Part 2A of the Principal Regulations.

This amendment is consequential to the repeal of the Subclass 411 (Exchange) visa by item [217] of this Schedule, as it is no longer possible to make a nomination in respect of a proposed applicant for that visa after 24 November 2012.

Item [74] After subregulation 2.72B(1)

This item inserts a note after subregulation 2.72B(1) in Division 2.17 of Part 2A of the Principal Regulations.

The note advises that the Subclass 411 (Exchange) visa was repealed by this Regulation from 24 November 2012 and explain that under new subregulation 2.73A(7), inserted in the Principal Regulations by Schedule 2 to this Regulation, the nomination fee may be refunded if the nomination does not identify an applicant for a Subclass 411 (Exchange) visa who applied before 24 November 2012.

Item [75] Subregulation 2.72B(2)

This item amends subregulation 2.72B(2) in Division 2.17 of Part 2A of the Principal Regulations by inserting the words “or long stay activity sponsor” after “exchange sponsor”.

The amendment is consequential to the amendment in item [72] of this Schedule, which has the effect that regulation 2.72B applies to a long stay activity sponsor as well as to an exchange sponsor.

Item [76] Subregulation 2.72B(3)

This item amends subregulation 2.72B(3) in Division 2.17 of Part 2A of the Principal Regulations by inserting the words “or a long stay activity sponsor” after “exchange sponsor”.

Subregulation 2.72B(3) as amended provides that, for a nomination relating to a Subclass 411 (Exchange) visa, the Minister must be satisfied that the person making the nomination is an exchange sponsor or a long stay activity sponsor. This amendment is consequential to item [72] of this Schedule, which provides that regulation 2.72B applies to a long stay activity sponsor as well as to an exchange sponsor.

Item [77] Subregulation 2.72B(4)

This item amends subregulation 2.72B in Division 2.17 of Part 2A of the Principal Regulations by inserting the words “or long stay activity sponsor” after each mention of “exchange sponsor”.

This amendment ensures that the criteria for approval of a nomination relating to a Subclass 411 (Exchange) visa in subregulation 2.72B(4) are also applicable to a long stay activity sponsor. This amendment is consequential to item [72] of this Schedule, which provides that regulation 2.72B applies to a long stay activity sponsor as well as to an exchange sponsor.

Item [78] Paragraph 2.72C(1)(b)

This item substitutes paragraph 2.72C(1)(b) in Division 2.17 of Part 2A of the Principal Regulations.

Currently, regulation 2.72C prescribes the criteria for approval of a nomination in relation to a Subclass 419 (Visiting Academic) visa.

The amendment to paragraph 2.72C(1)(b) removes the references to holders of, and proposed applicants for, a Subclass 419 visa in current paragraph 2.72C(1)(b), so that a nomination could only be approved where it relates to a Subclass 419 visa holder.

As Subclass 419 is repealed by item [219] of this Schedule, it is no longer relevant for a visiting academic sponsor to make a nomination in respect of a proposed applicant for that visa after 24 November 2012. Holders of Subclass 419 visas are no longer required to be nominated and therefore cannot change sponsors after 24 November 2012. This reflects the removal of the nomination stage for this cohort of applicants, who are transferred to the new Subclass 402 (Training and Research) visa in the Research stream from 24 November 2012.

Item [79] After subregulation 2.72C(1)

This item inserts a note after subregulation 2.72C(1) in Division 2.17 in Part 2A of the Principal Regulations.

The note advises that the Subclass 419 (Visiting Academic) visa is repealed by this Regulation from 24 November 2012 and explains that under new subregulation 2.73A(7), inserted in the Principal Regulations by Schedule 2 to this Regulation, the nomination fee may be refunded if the nomination does not identify an applicant for a Subclass 419 (Visiting Academic) visa who applied before 24 November 2012.

Items [80] – [82] Subregulation 2.72C(4); Subregulation 2.72C(5); and Subregulation 2.72C(6)

These items amend various provisions in regulation 2.72C in Division 2.17 of Part 2A of the Principal Regulations, to replace the words “identified visa holder or applicant” with “identified visa applicant”.

These amendments are consequential to amendments to paragraph 2.72C(1)(b) in item [78] of this Schedule, that limit the application of regulation 2.72C to a nomination in relation to an applicant for a Subclass 419 (Visiting Academic) visa.

Item [83] Regulation 2.72D, heading

This item substitutes the heading of regulation 2.72D in Division 2.17 of Part 2A of the Principal Regulations.

The amendment is consequential to the renaming of the Subclass 420 visa by item [220] of this Schedule.

Item [84] Paragraph 2.72D(1)(b)

This item amends paragraph 2.72D(1)(b) in Division 2.17 of Part 2A of the Principal Regulations by omitting the words “a program”.

The omission of the words “a program” clarifies the policy intention that a nomination in relation to a Subclass 420 (Temporary Work (Entertainment)) visa should be for an occupation or activity only.

Item [85] Paragraph 2.72D(2)(b)

This item amends paragraph 2.72D(2)(b) in Division 2.17 of Part 2A of the Principal Regulations, to replace the reference to “subregulations (4) to (9)” with “subregulations (4) to (10)”.

The amendment is consequential to the insertion of a new subregulation 2.72D(10) by item [89] of this Schedule.

Item [86] Subregulation 2.72D(8) heading

This item substitutes the heading of subregulation 2.72D(8) in Division 2.17 of Part 2A of the Principal Regulations.

The amended heading clarifies that subregulation 2.72D(8) relates to support staff assisting entertainers engaged “for profit”.

Item [87] Paragraph 2.72D(8)(a)

This item substitutes paragraph 2.72D(8)(a) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72D(8) prescribes the criteria for approval of a nomination in relation to an identified visa holder of, or applicant for, a Subclass 420 (Temporary Work)(Entertainment)) visa for the purposes of supporting one or more entertainers. The purpose of the amendment is to restrict the application of this subregulation to support provided for engagements other than non-profit engagements, and to align the wording of paragraph 2.72D(8)(a) with that used in subparagraph 2.72D(9)(a)(ii) by item [88] of this Schedule.

Item [88] Paragraph 2.72D(9)(a)

This item substitutes paragraph 2.72D(9)(a) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72D(9) prescribes the criteria for approval of a nomination in relation to an identified visa holder of, or applicant for, a Subclass 420 (Temporary Work (Entertainment)) visa for a performer engaged for non-profit purposes.

New paragraph 2.72D(9)(a) expands the operation of this subregulation, which currently applies to entertainers engaged for non-profit purposes, to include both a person who would be supporting an entertainer or a body of entertainers for such an engagement by assisting a performance or by providing personal services.

The purpose of amending regulation 2.72D to include the criteria for both performers engaged for non-profit performances, and their support staff in subregulation 2.72D, is to simplify the criterion for approval of a nomination for support staff for non-profit engagements.

Item [89] After subregulation 2.72D(9)

This item inserts new subregulation 2.72D(10) in Division 2.17 of Part 2A of the Principal Regulations.

New subregulation 2.72D(10), is headed “Documentary program or commercial for use outside Australia”, and provides for the circumstances in which a nomination by an entertainment sponsor in respect of a Subclass 420 (Temporary Work (Entertainment)) visa holder or applicant where the identified person would make a documentary, program or commercial that is for an overseas market, could be approved.

The criteria of new subregulation 2.72D(10) are currently set out in subregulation 2.72F(6) in for holders of, and applicants for, a Subclass 423 (Media and Film Staff) visa. The Subclass 423 visa is repealed by item [222] of this Schedule. This nomination category is moved to regulation 2.72D to allow this cohort of applicants to apply instead for a Subclass 420 (Temporary Work (Entertainment)) visa.

Item [90] Paragraph 2.72E(1)(a)

This item substitutes paragraph 2.72E(1)(a) in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.72E sets out the criteria for approval of a nomination of an occupation, a program or an activity, in relation to a Subclass 421 (Sport) visa. The amendment adds a long stay activity sponsor as a class of sponsor that may nominate an applicant or holder of a Subclass 421 visa.

The Subclass 421 visa is repealed by item [221] of this Schedule. The purpose of this amendment is to ensure that after 24 November 2012, a sport sponsor or a long stay activity sponsor can make a nomination in relation to a Subclass 421 visa holder, or a person who applied for that visa, but no decision had been made before 24 November 2012. The intention is that from 24 November 2012, a Subclass 421 visa holder would

continue to be able to transfer to a new approved sponsor who was either a sport sponsor or a long stay activity sponsor, without the need to apply for a new visa.

The amendment also removes current subparagraph 2.72E(1)(a)(ii) which provides that subregulation 2.72E applies to a party to a work agreement (other than a Minister). This Regulation removes provisions for work agreements relating to sporting or religious worker activities that have not been used since their introduction on 14 September 2009.

Item [91] Paragraph 2.72E(1)(b)

This item amends paragraph 2.72E(1)(b) in Division 2.17 of Part 2A of the Principal Regulations to omit the words “or a proposed applicant”.

The purpose of the amendment is to ensure that after 24 November 2012, a sport sponsor or a long stay activity sponsor may nominate an occupation, program or activity in respect only of an existing holder of a Subclass 421 (Sport) visa or an applicant for that visa whose application was made but not decided before 24 November 2012. As the Subclass 421 visa is repealed by item [221] of this Schedule, it would no longer be possible to make a nomination in respect of a proposed applicant for that visa.

Item [92] After subregulation 2.72E(1)

This item inserts a note after subregulation 2.72E(1) in Division 2.17 in Part 2A of the Principal Regulations.

The note advises that the Subclass 421 (Sport) visa was repealed by this Regulation from 24 November 2012, and explains that under new subregulation 2.73A(7), inserted in the Principal Regulations by Schedule 2 to this Regulation, the nomination fee may be refunded if a nomination does not identify a holder of a Subclass 421 visa, or an applicant for a Subclass 421 visa who applied before 24 November 2012.

Item [93] Subregulation 2.72E(2)

This item amends subregulation 2.72E(2) in Division 2.17 of Part 2A of the Principal Regulations to insert the words “or the long stay activity sponsor” after the words “the sport sponsor”.

Subregulation 2.72E(2) as amended provides that, for a nomination relating to a Subclass 421 (Sport) visa, the Minister must be satisfied that the person making the nomination is a sport sponsor or a long stay activity sponsor and that the criteria set out in one of subregulations 2.72E(4) to (7) are satisfied.

The amendment is consequential to the amendment of paragraph 2.72E(1)(a) in item [90] of this Schedule.

Item [94] Paragraph 2.72E(2)(a)

This item amends paragraph 2.72E(2)(a) in Division 2.17 of Part 2A of the Principal Regulations to insert the words “or a long stay activity sponsor” after the words “a sport sponsor”.

The amendment is consequential to the amendment of paragraph 2.72E(1)(a) in item [90] of this Schedule, which provides that regulation 2.72E applies to a long stay activity sponsor as well as to a sport sponsor.

Item [95] Subregulation 2.72E(3)

This item omits subregulation 2.72E(3) from Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72E(3) currently sets out the criteria to be satisfied for approval of a nomination in relation to a Subclass 421 (Sport) visa made by a party to a work agreement. The amendment is consequential to the amendment to paragraph 2.72E(1)(a) by item [90] of this Schedule, which removes current provisions for nominations for Subclass 421 visas under work agreements relating to sporting activities.

Item [96] – [97] Subregulation 2.72E(5); and Subregulation 2.72E(6)

These items amend subregulations 2.72E(5) and (6) in Division 2.17 of Part 2A of the Principal Regulations to insert the words “or long stay activity sponsor” after each mention of “sport sponsor”.

These amendments are consequential to the amendment to paragraph 2.72E(1)(a) by item [90] of this Schedule, which provides that regulation 2.72E applies to a long stay activity sponsor as well as to a sport sponsor.

Item [98] Paragraph 2.72F(1)(b)

This item substitutes paragraph 2.72F(1)(b) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72F(1) sets out the persons to whom regulation 2.72F (Criteria for approval of nomination – Subclass 423 (Media and Film Staff) visa) applies.

New paragraph 2.72F(1)(b) removes the current references to holders of, and proposed applicants for, a Subclass 423 visa. As the Subclass 423 visa is repealed by item [222] of this Schedule, there is no longer any purpose in an entertainment sponsor making a nomination in relation to a proposed applicant for that visa after 24 November 2012. Holders of Subclass 423 visas can no longer be nominated and therefore cannot change sponsors after 24 November 2012. Instead applicants are required to apply for a Subclass 420 (Temporary Work (Entertainment)) visa if they wish to change approved sponsors.

The amendment only allow an entertainment sponsor to make a nomination in relation to an applicant for a Subclass 423 visa who applied before 24 November 2012, referred to in this regulation as “the identified visa applicant”.

Item [99] After subregulation 2.72F(1)

This item inserts a note after subregulation 2.72F(1) in Division 2.17 of Part 2A of the Principal Regulations.

The note advises that the Subclass 423 (Media and Film Staff) visa was repealed by this Regulation from 24 November 2012, and explains that under new subregulation 2.73B(8), inserted in the Principal Regulations by Schedule 2 to this Regulation, the nomination fee may be refunded if a nomination does not identify an applicant for a Subclass 423 visa who applied before 24 November 2012.

Items [100] – [102] Paragraph 2.72F(4)(a); Paragraph 2.72F(5)(a); and Paragraph 2.72F(6)(a)

These items amend various provisions in regulation 2.72F in Division 2.17 of Part 2A of the Principal Regulations to replace the words “identified visa holder or applicant” with “identified visa applicant”.

These amendments are consequential to the amendments to paragraph 2.72F(1)(b) in item [98] of this Schedule.

Item [103] Paragraph 2.72G(1)(b)

This item amends paragraph 2.72G(1)(b) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72G(1) sets out the persons to whom regulation 2.72G (Criteria for approval of nomination – Subclass 427 (Domestic Worker (Temporary) – Executive) visa) applies.

New paragraph 2.72G(1)(b) removes the current references to holders of, and proposed applicants for, a Subclass 427 visa. As the Subclass 427 visa is repealed by item [222] of this Schedule, there would no longer be any purpose in a domestic worker sponsor to making a nomination in relation to a proposed applicant for that visa after 24 November 2012. It is also intended that the small group of people who hold Subclass 427 visas can no longer be nominated and therefore cannot change sponsors after 24 November 2012.

The amendment only allows a domestic work sponsor to make a nomination in relation to an applicant for a Subclass 427 visa who applied before 24 November 2012, referred to in this regulation as “the identified visa applicant”.

This item also inserts a note after subregulation 2.72G(1). The note advises that the Subclass 427 (Domestic Worker (Temporary) – Executive) visa was repealed by this Regulation from 24 November 2012, and explains that under new subregulation 2.73A(7), inserted in the Principal Regulations by Schedule 2 to this Regulation, the nomination fee may be refunded if a nomination does not identify an applicant for a Subclass 427 visa who applied before 24 November 2012.

Item [104] Subregulations 2.72G(4) to (7)

This item amends subregulations 2.72G(4) to (7) in Division 2.17 in Part 2A of the Principal Regulations, to omit the words “the holder” wherever they appear.

This amendment is consequential to amendments by item [103] of this Schedule.

Item [105] Paragraph 2.72H(1)(a)

This item substitutes paragraph 2.72H(1)(a) in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.72H sets out the criteria for approval of a nomination of an occupation, a program or an activity, in relation to a Subclass 428 (Religious Worker) visa. The amendment adds a long stay activity sponsor as a class of sponsor that may nominate a holder of or applicant for a Subclass 428 visa.

The Subclass 428 visa is repealed by item [222] of this Schedule. The purpose of this amendment is to ensure that after 24 November 2012, a religious worker sponsor or a long stay activity sponsor can make a nomination in relation to a Subclass 428 visa holder, or a person who applied for that visa before 24 November 2012. The intention is that from 24 November 2012 a Subclass 428 visa holder would continue to be able to transfer to a new approved sponsor who was either a religious worker sponsor or a long stay activity sponsor, without the need to apply for a new visa.

The amendment also removes current subparagraph 2.72H(1)(a)(ii) which provides that subregulation 2.72H applies to a party to a work agreement (other than a Minister). This Regulation removes provisions for work agreements relating to religious worker activities that have not been used since their introduction on 14 September 2009.

Item [106] Paragraph 2.72H(1)(b)

This item amends paragraph 2.72H(1)(b) in Division 2.17 of Part 2A of the Principal Regulations to omit the words “or a proposed applicant”.

This amendment is consequential to amendments by item [105] of this Schedule.

Item [107] After subregulation 2.72H(1)

This item inserts a note after subregulation 2.72H(1) in Division 2.17 in Part 2A of the Principal Regulations.

The note advises that the Subclass 428 (Religious Worker) visa was repealed by this Regulation from 24 November 2012, and explains that under new subregulation 2.73A(7), the nomination fee may be refunded if the nomination does not identify a holder of a Subclass 428 visa, or an applicant for that visa who applied before 24 November 2012.

Item [108] Subregulation 2.72H(2)

This item amends subregulation 2.72H(2) in Division 2.17 of Part 2A of the Principal Regulations to replace the words “or the party to a work agreement are set out in subregulation (3) to (5)” with the words “or the long stay activity sponsor are set out in subregulation (3) and (4)”.

Consequential to amendments to subregulation 2.72H(1) in item [105] of this Schedule, the amendment omits the current reference to a party to a work agreement and inserts a reference to a nominating long stay activity sponsor.



The amendment also provides that an approved sponsor seeking approval of a nomination in relation to a Subclass 428 (Religious Worker) visa, would be required to meet the requirements in subregulation 2.72H(3) or (4). This is consequential to the omission of subregulation 2.72H(5) by item [112] of this Schedule.

Item [109] Subregulation 2.72H(3)

This item amends subregulation 2.72H(3) in Division 2.17 of Part 2A of the Principal Regulations to replace the words “or a party to a work agreement (other than a Minister) of a kind mentioned in subregulation 2.76(4)” with the words “or a long stay activity sponsor”.

Consequential to amendments to subregulation 2.72H(1) in item [105] of this Schedule, the amendment omits the current reference to a party to a work agreement and inserts a reference to the nominating long stay activity sponsor.

Item [110] Subregulation 2.72H(4)

This item amends subregulation 2.72H(4) in Division 2.17 in Part 2A of the Principal Regulations to replace the words “If the person making the nomination is a religious worker sponsor,” with “The Minister”.

In conjunction with the amendments made by item [105] of this Schedule, by removing the specific reference to a religious worker sponsor this amendment ensures that subregulation 2.72H(4), setting out criteria to be satisfied for a nomination relating to a Subclass 428 (Religious Worker) visa, applies to a long stay activity sponsor as well as to a religious worker sponsor.

This amendment is consequential to the amendment to subregulation 2.72H(1) at item [105] of this Schedule.

Item [111] Subparagraph 2.72H(4)(a)(ii)

This item amends subparagraph 2.72H(4)(a)(ii) in Division 2.17 of Part 2A of the Principal Regulations to insert the words “or the long stay sponsor” after “the religious worker sponsor”.

This amendment is consequential to the amendment to subregulation 2.72H(1) at item [105] of this Schedule.

Item [112] Subregulation 2.72H(5)

This item omits subregulation 2.72H(5) in Division 2.17 of Part 2A of the Principal Regulations.

Subregulation 2.72H(5) currently provides that a nomination made by a party to a work agreement must satisfy the requirements of the work agreement. As no nominations have been made in relation to a Subclass 428 (Religious Worker) visa by a party to a work agreement since the Worker Protection framework was introduced on 14 September 2009, this provision is being removed.

Item [113] Regulation 2.72I, heading

This item substitutes the heading of regulation 2.72I in Division 2.17 of Part 2A of the Principal Regulations.

The new heading, “Criteria for approval of nomination – Subclass 442 (Occupational Trainee) visa and Subclass 402 (Training and Research) visa”, explains that the criteria set out in regulation 2.72I relates to the approval of nominations for both the Subclass 442 visa, that is repealed by this Regulation, and the new Subclass 402 visa, that is inserted by item [215] of this Schedule.

Item [114] Subregulation 2.72I(1)

This item substitutes subregulation 2.72I(1) in regulation 2.72I in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.72I sets out the criteria for approval of a nomination by an occupational trainee sponsor of an occupation, program or activity, in relation to a holder of, or an applicant or proposed applicant for, a Subclass 442 (Occupational Trainee) visa.

The amendment removes the reference to a proposed applicant for a Subclass 442 visa, consequential to the repeal of this visa by item [223] in this Schedule. A nomination may still be made in respect of an existing holder of a Subclass 442 visa or an applicant for a Subclass 442 visa who applied before 24 November 2012.

New subregulation 2.72I(1) extends the application of regulation 2.72I to the new training and research sponsors, and allow a nomination to be made in respect of an occupation, program or activity in relation to a holder of, or an applicant or proposed applicant for, the new Subclass 402 (Training and Research) visa.

This ensures that a training and research sponsor, or occupational trainee sponsor who applied for sponsorship before 24 November 2012, may make a nomination in relation to a Subclass 402 visa, with the nomination criteria remaining the same as those that currently apply in relation to a Subclass 442 visa.

The item also inserts a new note after subregulation 2.72I. The note advises that the Subclass 442 (Occupational Trainee) visa was repealed by this Regulation from 24 November 2012, and explains that under new subregulation 2.73A(7), the fee for a nomination made under regulation 2.72I before 24 November 2012 which does not identify a holder of, or an applicant for a Subclass 442 visa who applied before 24 November 2012, may be refunded.

Items [115] – [116] Subregulation 2.72I(2); and Subregulation 2.72I(3)

These items amend subregulations 2.72I(2) and (3) in Division 2.17 of Part 2A of the Principal Regulations to insert the words “or the training and research sponsor” after “occupational trainee sponsor”.

These amendments are consequential to the amendment to subregulation 2.72I(1) at item [114] of this Schedule, which provides that regulation 2.72I applies to a training and research sponsor as well as to an occupational trainee sponsor.

Item [117] Paragraph 2.72I(5)(b)

This item omits paragraph 2.72I(5)(b) from Division 2.17 of Part 2A of the Principal Regulations.

Paragraph 2.72I(5)(b) relates to nominations made before 1 July 2010. This provision is no longer relevant as all nominations made before 1 July 2010 have now been finalised.

Item [118] Paragraph 2.72I(5)(ba)

This item amends paragraph 2.72I(5)(ba) in Division 2.17 of Part 2A of the Principal Regulations to omit the words “if the nomination is made on or after 1 July 2010 –”.

As all nominations made before 1 July 2010 have now been finalised, there is no longer any need to differentiate between nominations made before or after 1 July 2010. All nominations must now meet the requirement in paragraph 2.72I(5)(ba).

Item [119] After regulation 2.72I

This item inserts regulation 2.72J (Criteria for approval of nomination – Subclass 401 (Temporary Work (Long Stay Activity)) visa) after regulation 2.72I in Division 2.17 of Part 2A of the Principal Regulations.

New regulation 2.72J sets out the criteria for approval of a nomination of an occupation or an activity in relation to a holder of, or an applicant or proposed applicant for, a Subclass 401 (Temporary Work (Long Stay Activity)) visa. The new Subclass 401 visa is inserted by items [206] and [215] of this Schedule.

New regulation 2.72J applies to a long stay activity sponsor, an exchange sponsor, a sport sponsor and a religious worker sponsor. From 24 November 2012, the exchange sponsor, sport sponsor and religious worker sponsor classes are closed to new applications for approval as a sponsor. However, the intention is that sponsors approved in relation to an application made before 24 November 2012 can nominate a holder of, or an applicant or proposed applicant for, a Subclass 401 visa for the term of the approval of the sponsorship.

A nomination by a relevant approved sponsor must meet the criteria in one of subregulations 2.72J(3), (4) or (5).

New subregulation 2.72J(3) set out the nomination criteria relating to a staff exchange. These criteria can only be met if the person making the nomination is a long stay activity sponsor who is a party to an exchange agreement, or an exchange sponsor.

The criteria are substantively the same as those currently set out for approval of a nomination relating to a Subclass 411 (Exchange) visa in regulation 2.72B. A nomination that met the requirements in subregulation 2.72J(3) is a criterion for the grant of a new Subclass 401 visa in the Exchange stream.

New subregulation 2.72J(4) sets out the nomination criteria relating to sporting activity – specifically, competitors in sporting events; or contracted sports players, coaches, instructors, judges and adjudicators. These criteria can only be met if the person making the nomination is a long stay activity sponsor who is a sporting organisation, or a sport sponsor. The criteria are substantively the same as those currently set out for approval of a nomination relating to a Subclass 421 (Sport) visa in regulation 2.72E. A nomination that met one of the sets of requirements in new subregulation 2.72J(4) is a criterion for the grant of a new Subclass 401 visa in the Sport stream.

Subregulation 2.72E(6) currently sets out the criteria for approval of a nomination relating to sports trainees. This set of criteria are to be replicated in new subregulation 2.72J(4). This is because sports trainees will instead be required to apply for a new Subclass 402 (Training and Research) visa in the Occupational Trainee stream. Currently, sports trainees may be nominated in relation to, and apply for, either a Subclass 421 (Sport) visa or a Subclass 442 (Occupational Trainee) visa. The amendments remove this duplication.

New subregulation 2.72J(5) sets out the nomination criteria relating to religious work. These criteria can only be met if the sponsor making the nomination is a long stay activity sponsor who is a religious institution, or a religious worker sponsor. These criteria are substantively the same as those currently set out for approval of a nomination relating to a Subclass 428 (Religious Worker) visa in regulation 2.72H. A nomination that met the requirements in subregulation 2.72J(5) is a criterion for the grant of a new Subclass 401 visa in the Religious Worker stream.

Items [120] – [121] Regulation 2.73, heading; and Paragraph 2.73(1A)(b)

These items amend regulation 2.73 in Division 2.17 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [122] Paragraph 2.73A(1)(b)

This item substitutes paragraph 2.73A(1)(b) in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.73A sets out the process by which an approved sponsor may nominate an occupation, program or activity under paragraph 140GB(1)(b) of the Act, for a range of temporary work visas. Paragraph 2.73A(1)(b) currently provides that regulation 2.73A applies in cases where the nominated person is the holder of, or an applicant or proposed applicant for, one of the following visas:

- a Subclass 411 (Exchange) visa;
- a Subclass 419 (Visiting Academic) visa;
- a Subclass 427 (Domestic Worker (Temporary) — Executive) visa;

- a Subclass 428 (Religious Worker) visa;
- a Subclass 442 (Occupational Trainee) visa.

Paragraph 2.73A(1)(b) extends the application of regulation 2.73A to nominations related to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa. Items 1 and 2 of the table for paragraph 2.73A(1)(b), provide that a visa holder, a visa applicant, or a proposed visa applicant, may be the subject of a nomination in relation to a Subclass 401 or Subclass 402 visa.

Consistent with the amendments to the criteria for approval of nominations in relation to a Subclass 411 (Exchange) visa, a Subclass 419 (Visiting Academic) visa, a Subclass 427 (Domestic Worker) visa, a Subclass 428 (Religious Worker) visa, and a Subclass 442 (Occupational Trainee) visa made by items [73], [78], [103], [106] and [114] of this Schedule, items 3, 4, 5, 6 and 7 of the table do not refer to a “proposed applicant”. This is because, from 24 November 2012, it is no longer possible to apply for a visa of those subclasses, so there would be no purpose in making a nomination in respect of a proposed applicant for them.

Items 4 and 5 reflect that a nomination in respect of a Subclass 419 visa or a Subclass 427 visa may be made only in relation to an applicant for the relevant visa, where the application was made before 24 November 2012. Nominations can no longer be made in relation to a holder of those visas.

Item [123] Subregulations 2.73A(3) and (4)

This item substitutes new subregulations 2.73(3), (3A), (3B) and (4) for current subregulations 2.73A(3) and (4) in Division 2.17 of Part 2A of the Principal Regulations.

New subregulation 2.73A(3) provides that if the approved sponsor identifies in the nomination a holder of, or an applicant or proposed applicant for, a Subclass 401 (Temporary Work (Long Stay Activity)) visa, the approved sponsor must make the nomination in accordance with approved form 1401N. A long stay activity sponsor, or an exchange sponsor, sport sponsor or religious worker sponsor approved in relation to an application for sponsorship made before 24 November 2012, may make a nomination in relation to a new Subclass 401 visa.

New subregulation 2.73A(3A) provides that if the approved sponsor identifies in the nomination a holder of, or an applicant or proposed applicant for, a Subclass 402 (Training and Research) visa, the approved sponsor must make the nomination in accordance with approved form 1402N. An occupational trainee sponsor approved in relation to an application for sponsorship that was made before 24 November 2012, may make a nomination in relation to a new Subclass 402 visa.

New subregulation 2.73A(3B) provides that if subregulation 2.73A(3) and (3A) do not apply, the approved sponsor must make the nomination in accordance with approved form 1378. This is the form prescribed in current subregulation 2.73A(3) for nominations relating to a Subclass 411 (Exchange) visa, a Subclass 419 (Visiting Academic) visa, a Subclass 427 (Domestic Worker (Temporary) – Executive) visa, a

Subclass 428 (Religious Worker) visa and a Subclass 442 (Occupational Trainee) visa. The effect of the amendment is that nominations relating to these visas would continue to be made in accordance with approved form 1378.

New subregulation 2.73A(4) provides that the nomination must be accompanied by the fee in the table.

Item 1 of the table in subregulation 2.73A(4) provides that the fee for a nomination relating to a new Subclass 401 visa is nil, if the applicant, proposed applicant or holder of the Subclass 401 visa is in a class of persons specified by the Minister in an instrument in writing. This provision complements the nil visa application charge provision in item 1 of the table in paragraphs 1232(2)(a) of Schedule 1 inserted by item [206] of this Schedule and provides flexibility for the Minister to specify that a nil fee may be payable in relation to certain sporting events.

Item 2 of the table provides that if an approved sponsor is seeking to make more than 20 nominations together the fee is \$3400, or if this does not apply, \$170. This reflects the fees provided for in current subregulation 2.73A(4).

Item [124] Regulation 2.73B, heading

This item substitutes the heading of regulation 2.73B in Division 2.17 of Part 2A of the Principal Regulations.

The new heading, “Process for nomination – Subclass 420 (Temporary Work (Entertainment)) visa and Subclass 423 (Media and Film Staff) visa”, reflects the change of the name of the Subclass 420 visa to the Subclass 420 (Temporary Work (Entertainment)) visa, by item [220] of this Schedule.

Item [125] Subregulation 2.73B(1)

This item substitutes subregulation 2.73B(1) in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.73B sets out the process for making a nomination in relation to the Subclass 420 (Temporary Work (Entertainment)) visa and the Subclass 423 (Media and Film Staff) visa.

Paragraph 2.73B(1)(a) refers to the nomination of an occupation or activity and no longer refers to the nomination of a program. This amendment corrects an oversight as the reference to programs has no relevance to the Subclass 420 visa or the Subclass 423 visa.

Subparagraphs 2.73B(1)(b)(i) refers to a holder of, or an applicant or proposed applicant for, the Subclass 420 (Temporary Work (Entertainment)) visa.

Consistent with amendments to the criteria for approval of nominations in relation to a Subclass 423 in item [98] of this Schedule, there is no longer be a process for nominating the holder of, or a proposed applicant for a Subclass 423 visa.

Item [126] Subregulation 2.73B(3)

This item substitutes new subregulations 2.73B(3) and (3A) for subregulation 2.73B(3) in Division 2.17 of Part 2A of the Principal Regulations.

The subregulations provide that applications for approval of a nomination in relation to a Subclass 420 (Temporary Work (Entertainment)) visa must be made in accordance with approved form 1420N, and applications for approval of a nomination in relation to a Subclass 423 (Media and Film Staff) visa must be made using approved form 1379.

Item [127] Paragraph 2.73C(1)(b)

This item amends paragraph 2.73C(1)(b) in Division 2.17 of Part 2A of the Principal Regulations to omit the words “or a proposed applicant”.

Regulation 2.73C sets out the process for nomination relating to a Subclass 421 (Sport) visa. This amendment is consequential to amendments to the criteria for approval for a nomination in relation to a Subclass 421 (Sport) visa in item [91] of this Schedule.

Items [128] – [130] Regulation 2.75, heading; Subregulation 2.75(1); and Paragraph 2.75(2)(c)

These items amend various provisions in regulation 2.75 in Division 2.17 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [131] Subregulation 2.75A(1)

This item substitutes subregulation 2.75A(1) in Division 2.17 of Part 2A of the Principal Regulations.

Regulation 2.75A prescribes when the period of approval of a nomination in relation to the temporary work visas set out in subregulation 2.75A(1) ceases.

New subregulation 2.75A(1) extends the operation of regulation 2.75A to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa.

The new subregulation also retains references to the visa subclasses referred to in the current subregulation. The table sets out the visas and persons to whom a nomination may relate after 24 November 2012, which reflect amendments made by this Schedule to the criteria for approval of a nomination in relation to the relevant visas.

Item [132] Paragraphs 2.75A(2)(c) and (d)

This item substitutes paragraphs 2.75A(2)(c) and (d) in Division 2.17 of Part 2A of the Principal Regulations.

Paragraphs 2.75A(2)(c) and (d) omit the current references to parties to a work agreement. Work agreements have not been used in relation to the visa subclasses listed in subregulation 2.75A(1). The amendment is consequential to items [90] and [105] of this Schedule.

Item [133] Paragraph 2.75A(2)(e)

This item omits paragraph 2.75A(2)(e) from Division 2.17 of Part 2A of the Principal Regulations.

The omitted paragraph relates to “work agreements”. Work agreements have not been used in relation to the visa subclasses listed in subregulation 2.75A(1). The amendment is consequential to items [90] and [105] to this Schedule.

Item [134] Subregulation 2.76(1)

This item amends subregulation 2.76(1) in Division 2.18 of Part 2A of the Principal Regulations to replace the words “subregulation (2), (3) or (4)” with “this regulation”.

Regulation 2.76 sets out the requirements for a work agreement under section 140GC of the Act.

The amendment is consequential to the omission of subregulations (3) and (4) by item [137] of this Schedule.

Item [135] Paragraph 2.76(2)(b)

This item amends paragraph 2.76(2)(b) in Division 2.8 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, which is effected by item [224] of this Schedule.

Item [136] Paragraphs 2.76(2)(c) and (d)

This item substitutes a new paragraph 2.76(2)(c) for paragraphs 2.76(2)(c) and (d) in Division 2.18 of Part 2A of the Principal Regulations.

The amendment removes paragraph 2.76(2)(d), which precludes a work agreement that is an IASS agreement from meeting the requirements of subregulation 2.76(2). The amendment is consequential to the omission of the definition of Invest Australia Supported Skills (IASS) agreements in regulation 1.16B of the Principal Regulations by item [21] of this Schedule.

Item [137] Subregulations 2.76(3) and (4)

This item omits subregulations 2.76(3) and (4) from Division 2.18 of Part 2A of the Principal Regulations.



Current subregulation 2.76(3) sets out the requirements for a work agreement relating to sporting activities. A sporting organisation which is a party to a work agreement of this kind may currently nominate an applicant for, or a holder of, a Subclass 421 (Sport) visa.

Current subregulation 2.76(4) sets out the requirements for a work agreement relating to religious activities. A religious institution which is a party to a work agreement of this kind may currently nominate an applicant for, or a holder of, a Subclass 428 (Religious Worker) visa.

As no work agreements have been entered into under subregulations 2.76(3) and (4) since this regulation commenced on 14 September 2009, provision for such work agreements will not be continued under the Worker Protection framework.

Items [138] – [146] Subparagraph 2.79(1)(a)(i); Subparagraph 2.79(1)(a)(ii); Subparagraph 2.79(1)(b)(i); Subparagraph 2.79(1)(b)(ii); Subparagraph 2.79(1A)(a)(i); Subparagraph 2.79(1A)(a)(ii); Subparagraph 2.79(4)(a)(ii); Subparagraph 2.79(4)(a)(iii); and Sub-subparagraph 2.79(4)(b)(i)(A)

These items amend various provisions in regulation 2.79 in Division 2.19 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

These amendments are consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [147] Subregulation 2.80(1)

This item substitutes subregulation 2.80(1) in Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.80 sets out the obligation to pay travel costs to enable sponsored persons to leave Australia. Subregulation 2.80(1) defines the sponsors who are subject to the obligation.

New paragraph 2.80(1)(a) provides that regulation 2.80 applies to a long stay activity sponsor or a religious worker sponsor if the primary sponsored person holds, or last held, a new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream, or a Subclass 428 (Religious Worker) visa. The long stay activity sponsor class is inserted in the Principal Regulations by item [57] of this Schedule, and replaces, among other classes of sponsor, the religious worker sponsor class. The Subclass 401 visa is inserted in the Principal Regulations by items [206] and [215] of this Schedule and replaces, among other visa subclasses, the Subclass 428 visa.

The amendment maintains the current policy setting that an approved sponsor of a religious worker is subject to the obligation to pay travel costs to enable sponsored persons to leave Australia. The obligation applies in relation to both a primary sponsored person and secondary sponsored person, if the primary sponsored person is granted a Subclass 428 visa or a Subclass 401 visa in the Religious Worker stream.

New paragraph 2.80(1)(b) provides that regulation 2.80 applies to a professional development sponsor if the primary sponsored person holds, or last held, a new Subclass 402 (Training and Research) visa in the Professional Development stream. Although professional development sponsors are not currently subject to the obligation in regulation 2.80, the requirement to pay travel costs must currently be included in a professional development agreement, in accordance with subregulation 2.60(2). Item [53] of this Schedule removes subregulation 2.60(2), so the amendment ensures that professional development sponsors continue to be responsible for certain travel costs. The obligation applies only in relation to primary sponsored persons as the Subclass 402 visa in the Professional Development stream does not provide for secondary applicants.

New paragraph 2.80(1)(c) replicates current paragraph 2.80(1)(a) relating to Subclass 416 (Special Program) visas. However, a technical amendment clarifies that the obligation applies in relation to a primary sponsored person or a secondary sponsored person, if the primary sponsored person holds, or last held, a Subclass 416 visa granted on the basis that the person satisfied the criterion in paragraph 416.222(a) of Schedule 2. This reflects that paragraph 416.222(a) is a primary criterion for grant of the visa and therefore need not be satisfied by secondary applicants.

New paragraph 2.80(1)(d) replicates current paragraph 2.80(1)(c) relating to work agreements but reflects the name change of the Subclass 457 visa effected by item [224] of this Schedule. Paragraph 2.80(1)(d) also removes references to work agreements for the Subclass 428 visa, consequential to item [105] of this Schedule.

New paragraph 2.80(1)(e) relates to standard business sponsors and replicates current paragraph 2.80(1)(d), while reflecting the change of the name of the Subclass 457 visa.

#### Item [148] Paragraph 2.80(3)(d)

This item substitutes paragraph 2.80(3)(d) in Division 2.19 of Part 2A of the Principal Regulations.

Paragraph 2.80(3)(d) currently provides that a request to pay a sponsored person's travel costs in accordance with regulation 2.80 must be made while the person whose travel will be funded is the holder of one of the visas mentioned in subregulation 2.80(1). The amendment adds references to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa, as item [147] of this Schedule provides that the obligation applies in relation to these visas.

The amendment also makes a technical clarification to refer to a Subclass 416 (Special Program) visa without reference to paragraph 416.222(a). This is because the requirement for the visa holder to have satisfied paragraph 416.222(a), or be a secondary sponsored person in relation to a primary sponsored person who satisfied paragraph 416.222(a), is established in subregulation 2.80(1). Subregulation 2.80(1) has the effect of limiting the operation of the obligation where the primary sponsored person was granted the visa on the basis of satisfying this criterion without need for further mention of the criterion in this paragraph.

The amendment also reflects the name change of the Subclass 457 visa effected by item [224] of this Schedule.

Item [149] Subparagraph 2.80(5)(a)(i)

This item substitutes subparagraph 2.80(5)(a)(i) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) prescribes the period of time during which a sponsor is subject to the obligation to pay travel costs for a sponsored person to leave Australia.

Paragraph 2.80(5)(a) prescribes when the obligation starts to apply.

New subparagraph 2.80(5)(a)(i) inserts a reference to the new Subclass 402 (Training and Research) visa and provides that the obligation to pay travel costs arises on the day that the primary sponsored person is granted the visa. This is consistent with current arrangements for the Subclass 416 (Special Program) visa which are mirrored in new subparagraph 2.80(5)(a)(ia).

Item [150] Subparagraph 2.80(5)(a)(ii)

This item amends subparagraph 2.80(5)(a)(ii) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) defines the period of time during which a sponsor is subject to the obligation to pay the travel costs for a sponsored person to leave Australia.

Paragraph 2.80(5)(a) prescribes when the obligation starts to apply.

New subparagraph 2.80(5)(a)(ii) inserts a reference to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and provides that the obligation to pay travel costs starts on the day that a nomination is approved by the Minister or, if the primary sponsored person does not hold the Subclass 401 visa at that time, on the date that the primary sponsored person is granted the visa. The amendment also changes the name of the Subclass 457 visa, which is consequential to item [224] of this Schedule.

Item [151] Sub-subparagraph 2.80(5)(b)(iii)(B)

This item substitutes sub-subparagraph 2.80(5)(b)(iii)(B) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) defines the period of time during which a sponsor is subject to the obligation to pay the travel costs for a sponsored person to leave Australia.

Paragraph 2.80(5)(b) prescribes when that the obligation, in relation to a primary sponsored person, ends.

New sub-subparagraph 2.80(5)(b)(iii)(B) inserts references to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa, consequential to item [148] of this Schedule, which provides that the obligation applies in relation to these visas. New sub-subparagraph 2.80(5)(b)(iii)(B) also changes the name of the Subclass 457 visa, consequential to item [224] of this Schedule.

Item [152] Sub-sub-subparagraph 2.80(5)(b)(iii)(C)(II)

This item substitutes sub-sub-subparagraph 2.80(5)(b)(iii)(C)(II) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) defines the period of time during which a sponsor is subject to the obligation to pay the travel costs for a sponsored person to leave Australia. Paragraph 2.80(5)(b) prescribes when that the obligation, in relation to a primary sponsored person, ends.

New sub-sub-subparagraph 2.80(5)(b)(iii)(C)(II) inserts references to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa and is consequential to item [148] of this Schedule which provides that the obligation applies in relation to these visas. New sub-sub-subparagraph 2.80(5)(b)(iii)(C)(II) also changes the name of the Subclass 457 visa, which is consequential to item [224] of this Schedule.

Item [153] Sub-subparagraph 2.80(5)(c)(iii)(B)

This item substitutes sub-subparagraph 2.80(5)(c)(iii)(B) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) defines the period of time during which a sponsor is subject to the obligation to pay the travel costs for a sponsored person to leave Australia. Paragraph 2.80(5)(c) prescribes when that the obligation, in relation to a secondary sponsored person, ends.

New sub-subparagraph 2.80(5)(c)(iii)(B) inserts references to the holder of a new Subclass 401 (Temporary Work (Long Stay Activity)) visa, and is consequential to item [148] of this Schedule. This sub-subparagraph does not refer to the Subclass 402 (Training and Research) visa as secondary applicants are not eligible to be granted a visa in association with the Professional Development stream of this new visa. The amendment also changes the name of the Subclass 457 visa, consequential to item [224] of this Schedule.

Item [154] Sub-sub-subparagraph 2.80(5)(c)(iii)(C)(II)

This item substitutes sub-sub-subparagraph 2.80(5)(c)(iii)(C)(II) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.80(5) defines the period of time during which a sponsor is subject to the obligation to pay the travel costs for a sponsored person to leave Australia. Paragraph 2.80(5)(c) prescribes when that the obligation, in relation to a secondary sponsored person, ends.

New sub-sub-subparagraph 2.80(5)(c)(iii)(C)(II) includes references to the last substantive visa held being a new Subclass 401 (Temporary Work (Long Stay Activity)) visa, and is consequential to item [148] of this Schedule. The amendment also changes the name of the Subclass 457 visa, consequential to item [224] of this Schedule.

Item [155] Subparagraph 2.82(3)(c)(i)

This item amends subparagraph 2.82(3)(c)(i) in Division 2.19 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, which is effected by item [224] of this Schedule.

Item [156] Subparagraph 2.82(3)(c)(ii)

This item amends subparagraph 2.82(3)(c)(ii) in Division 2.19 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, which is effected by item [224] of this Schedule.

Item [157] Subregulation 2.83(2), note

This item omits the note which follows subregulation 2.83(2) in Division 2.19 of Part 2A of the Principal Regulations.

The note states that: “Subregulation 2.82 does not apply to a professional development sponsor”. This amendment corrects an error in the Principal Regulations as the note is misplaced and incorrect because regulation 2.82 does apply to professional development sponsors. The note was inserted in error by the *Migration Amendment Regulations 2009 (No.5)* (SLI 2009 No. 15).

Item [158] After subregulation 2.84(4J)

This item inserts new subregulations 2.84(4K) and (4L) after subregulation 2.84(4J) of Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.84 sets out the obligation of an approved sponsor (or former approved sponsor) to inform the Department of Immigration and Citizenship when certain events occur relating to primary or secondary sponsored persons.

New subregulation 2.84(4K) sets out the obligations applicable to a person who is or was a long stay activity sponsor. The new long stay activity sponsor class is created by item [57] of this Schedule and replaces the exchange sponsor, sport sponsor and religious worker sponsor classes, which are closed to new applications for approval as a sponsor from 24 November 2012. The events that a person who is or was a long stay activity sponsor must report to the Department of Immigration and Citizenship largely maintain the current policy settings applicable to these closed classes of sponsor, as currently set out in subregulations 2.84(4A), (4F) and (4H), with some changes to achieve harmonisation of obligations.

The new subregulation prescribes three events that must be reported by all long stay activity sponsors:

- a change to the information, in relation to the person's address and contact details, provided to Immigration in the person's application for approval as a long stay activity sponsor; and
- a primary sponsored person fails to participate in the nominated activity for which the primary sponsored person was identified; and
- a primary sponsored person ceases participation in the nominated activity for which the primary sponsored person was identified.

Where the primary sponsored person was granted the visa on the basis of an approved nomination that required the approved sponsor and the visa holder to enter into a formal arrangement in relation to certain sporting activities, a change to the formal arrangement between the primary sponsored person and the person is required to be reported.

Where the primary sponsored person was granted the visa on the basis of an approved nomination that related to a staff exchange, a new requirement to notify a change to the exchange agreement is introduced.

Finally, there is an obligation to report that the person has paid the return travel costs of a primary sponsored person or secondary sponsored person in accordance with the obligation mentioned in regulation 2.80. As regulation 2.80 has limited application, this obligation is only relevant where the primary sponsored person was granted the visa on the basis of an approved nomination that related to religious work.

New subregulation 2.84(4L) sets out the obligations applicable to a person who is or was a training and research sponsor. The new training and research sponsor class is created by item [57] of this Schedule and replaces the visiting academic and occupational trainee sponsor classes, which close to new applications for approval as a sponsor from 24 November 2012. The events that a person who is or was a training and research sponsor is required to report to the Department of Immigration and Citizenship largely maintain the current policy settings applicable to those closed classes of sponsor, as currently set out in subregulations 2.84(4D) and (4I).

All new training and research sponsors are obliged to report a change to the information, in relation to the person's address and contact details, provided to the Department of Immigration and Citizenship in the person's application for approval as a training and research sponsor.

Those sponsors who nominated a primary visa holder for the new Subclass 402 (Training and Research) visa in the Occupational Trainee stream, which are the only stream of this visa that requires nomination, are required to notify:

- if a primary sponsored person fails to participate in the nominated activity for which the primary sponsored person was identified; and
- where a primary sponsored person ceases participation in the nominated activity for which the primary sponsored person was identified.

A sponsor of a person granted a new Subclass 402 (Training and Research) visa in the Research stream is also obliged to report if a primary sponsored person fails to participate in the research project in relation to which the primary sponsored person was granted the visa.

Item [159] Subregulation 2.84(6), table, item 3A

This item amends item 3A in the table at subregulation 2.84(6) of Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.84(6) prescribes the timeframes in which sponsors must comply with their notification obligations. The amendment extends the application of item 3A of the table to new subregulations 2.84(4K) and (4L) which are inserted by item [158] of this Schedule.

The effect of the amendment is to ensure that a person who is or was a long stay activity sponsor or a training and research sponsor is required to notify the Department of Immigration and Citizenship within 10 working days of a change or event mentioned in subregulation 2.84(4K) or (4L) occurring. This is consistent with current policy settings.

Items [160] – [161] Paragraph 2.85(1)(a); and Paragraphs 2.85(1)(d) to (f)

These items amend subregulation 2.85(1) of Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.85 sets out the obligation of certain approved sponsors to secure an offer of a reasonable standard of accommodation for sponsored persons. Subregulation 2.85(1) sets out the approved sponsors who are subject to the obligation.

Paragraph 2.85(1)(a) currently applies to a primary sponsored person, if the primary sponsored person holds, or last held, a Subclass 470 (Professional Development) visa. This amendment extends this obligation in relation to a primary sponsored person who holds, or last held a new Subclass 402 (Training and Research) visa in the Research stream or Professional Development stream, and a secondary sponsored person where the primary sponsored person holds or last held a Subclass 402 visa in the Research stream.

This obligation applies to professional development sponsors, visiting academic sponsors and training and research sponsors. A visiting academic sponsor is not currently subject to the obligation in relation to Subclass 419 (Visiting Academic) visa holders.

Paragraphs 2.85(1)(d) to (f) currently provide that regulation 2.85 applies to a person who is or was a sport sponsor, religious worker sponsor, occupational trainee sponsor where the nomination relates to a volunteer role or a party to a work agreement if the sponsored person holds, or last held, a Subclass 421 (Sport) visa, or a Subclass 428 (Religious Worker) visa but only where the nomination relates to a volunteer role.

New paragraphs 2.85(1)(d) and (e) maintain the current policy settings in relation to sport sponsors, religious worker sponsors and occupational trainee sponsors in

relation to Subclass 421, Subclass 428 and Subclass 442 visa holders, with the exception that references to parties to a work agreement are omitted consequential to items [90] and [105] of this Schedule.

New paragraphs 2.85(1)(d) and (e) also impose the obligation in regulation 2.85 on a person who is or was an approved sponsor in the following circumstances:

- a primary sponsored person holds, or the last substantive visa held was, a new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Sport stream, or the Religious Worker stream, in a volunteer role; and
- a primary sponsored person holds, or the last substantive visa held was, a new Subclass 402 (Training and Research) visa in the Occupational Trainee stream, in a volunteer role.

The classes of sponsor subject to the obligation in relation to Subclass 401 and Subclass 402 visa holders are long stay activity sponsors, training and research sponsors, sport sponsors, religious worker sponsors, and occupational trainee sponsors. The new long stay activity sponsor class and the new training and research sponsor class are created by item [57] of this Schedule. Although the sport sponsor, religious worker sponsor and occupational trainee sponsor classes are closed to new applications for approval as a sponsor by this Schedule, existing sponsors are able to nominate, or agree in writing to sponsor (as relevant), Subclass 401 or Subclass 402 visa applicants and holders.

Item [162] Subparagraph 2.85(4)(a)(ii)

This item amends subparagraph 2.85(4)(a)(ii) of Division 2.19 of Part 2A of the Principal Regulations to insert a reference to the new Subclass 401 (Temporary Work (Long Stay Activity)) visa.

Subregulation 2.85(4) prescribes the period of time during which a sponsor is subject to an obligation to secure a reasonable offer of accommodation for sponsored persons.

The purpose of this amendment is to ensure that the obligation to secure a reasonable offer of accommodation arises on the day that the Minister approves a nomination identifying the primary sponsored person, or if the primary sponsored person does not hold the Subclass 401 visa on that day, on the day on which the primary sponsored person is granted the visa on the basis of that nomination.

Item [163] – [164] Sub- subparagraph 2.85(4)(a)(ii)(B); and After subparagraph 2.85(4)(a)(ii)

These items amend subparagraph 2.85(4)(a)(ii) of Division 2.19 of Part 2A of the Principal Regulations.

New subparagraph 2.85(4)(a)(iii) provides that the obligation commences on the day that a sponsored person is granted a new Subclass 402 (Training and Research) visa in the Research stream or the Professional Development stream. This replicates the current requirements in relation to a Subclass 470 (Professional Development) visa.



New subparagraph 2.85(4)(a)(iv) provides that the obligation commences on the day that a sponsored person is granted a new Subclass 402 (Training and Research) visa in the Occupational Trainee stream or, if the primary sponsored person does not already hold the visa, on the day the Minister approves the nomination that identifies the primary sponsored person. This replicates the current requirements in relation to a Subclass 442 (Occupational Trainee) visa.

Item [165] Subregulation 2.86(1)

This item substitutes subregulation 2.86(1) in Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.86 prescribes the obligation of certain approved sponsors to ensure that the primary sponsored person works or participates in the nominated occupation, program or activity. Subregulation 2.86(1) sets out the approved sponsors who are subject to the obligation. Eight classes of sponsor, and parties to a work agreement, are currently listed in relation to nine subclasses of visa, all of which require the approved sponsor or party to a work agreement to have made a nomination identifying the visa applicant.

New subregulation 2.86(1) has the same effect as the existing provision, except that it is expressed in terms which remove the need to separately list the individual classes of sponsor and visa. In addition, new subregulation 2.86(1) applies to the new long stay activity and training and research sponsors, created by item [57] of this Schedule.

Item [166] – [168] Subregulation 2.86(2); Paragraph 2.86(2A)(a); and Paragraph 2.86(2A)(b)

These items amend subregulations 2.86(2) and (2A) of Division 2.19 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, effected by item [224] of this Schedule.

Item [169] Subregulation 2.86(2C)

This item substitutes subregulation 2.86(2C) of Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.86(2C) currently sets out the obligation to ensure that the primary sponsored person works or participates in the nominated occupation, program or activity, in relation to the visas set out in subregulation 2.86(1) apart from the Subclass 457 (Temporary Work (Skilled)) visa.

The amendment is consequential to item [165] of this Schedule, which restructures subregulation 2.86(1). The same policy objective is achieved as the current provision, which is that the obligation set out at subregulation 2.86(2C) applies to visas that include a nomination stage, apart from the Subclass 457 visa.

Item [170] Subparagraph 2.86(3)(a)(iii)

This item amends subparagraph 2.86(3)(a)(iii) of Division 2.19 of Part 2A of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, which is effected by item [224] of this Schedule.

Item [171] Subregulation 2.87(1)

This item amends subregulation 2.87(1) of Division 2.19 of Part 2A of the Principal Regulations to omit the words “(other than a professional development sponsor)”.

Regulation 2.87 sets out the obligation that approved sponsors must not seek to recover certain costs from a sponsored person. Subregulation 2.87(1) currently excludes professional development sponsors from being subject to this obligation.

The amendment imposes the obligation not to recover costs on professional development sponsors. The change is related to the removal of current subregulation 2.60(2), which sets out the requirements for a professional development agreement, by item [53] of this Schedule.

Current subregulation 2.60(2) deals with cost recovery by providing that a professional agreement must specify who will be responsible for paying participant costs, and by specifying that a professional development agreement must not require the primary sponsored person to pay tuition costs. Subregulation 2.87(1) ensures that, following the removal of subregulation 2.60(2), professional development sponsors are subject to the same obligation in relation to cost recovery as other approved sponsors.

Item [172] – [173] Subparagraph 2.87(2A)(a)(iii); and Subparagraphs 2.87(2A)(b)(i) and (ii)

These items amend subregulation 2.87(2A) of Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.87(2A) currently imposes an additional obligation on a person who is or was an approved sponsor in relation to Subclass 427 (Domestic Worker (Temporary) – Executive) and Subclass 428 (Religious Worker) visa holders, that the approved sponsor must not recover or seek to recover from the sponsored person any expenditure by the approved sponsor in relation to financial support of the sponsored person in Australia.

New subparagraph 2.87(2A)(a)(iii) omits the reference to a party to a work agreement, and includes a reference to the new long stay activity sponsor. The removal of the reference to parties to a work agreement is consequential to items [90] and [105] of this Schedule.

The purpose of new subparagraphs 2.87(2A)(b)(i) and (ii) is that subregulation 2.87(2A) also applies in relation to a sponsored person who holds, or last held, a new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker

stream. This maintains the current policy setting that an approved sponsor of a religious worker is subject to this obligation.

New subparagraphs 2.87(2A)(iii) and (iv) also maintain the current policy setting that the additional obligation applies in relation to Subclass 427 and Subclass 428 visas.

Item [174] Subregulation 2.87A(1)

This item substitutes subregulation 2.87A(1) in Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.87A sets out the obligation of a person who is or was an exchange sponsor to make available to the Australian participant named in the exchange agreement, immediately after completion of the exchange, a position which is the same, or equivalent to, the position held by the Australian participant in Australia at the time the exchange agreement was entered into.

New subregulation 2.87A(1) provides that regulation 2.87A applies to a person who is or was an approved sponsor, who has made a nomination in relation to a new Subclass 401 (Temporary Work) Long Stay Activity)) visa in the Exchange Stream or a Subclass 411 (Exchange) visa.

The amendment ensures that the obligation applies to a person who is or was a new long stay activity sponsor, as well as to an exchange sponsor. The long stay activity sponsor class is created by item [57] of this Schedule and replaces (among other classes) the exchange sponsor class. It also ensures that the obligation applies in relation to a new Subclass 401 visa holder in the Exchange stream, as well as in relation to a Subclass 411 (Exchange) visa holder. The Subclass 401 visa is created by items [206] and [215] of this Schedule and replaces (among other visa subclasses) the Subclass 411 visa subclass.

The amendment therefore maintains the current policy setting that an approved sponsor of a participant in a staff exchange is subject to the obligation to make the same or equivalent position available to the Australian participant upon completion of the exchange.

Item [175] Subregulation 2.87A(2)

This item inserts a reference to subregulation 2.72J(3) in subregulation 2.87A(2) in Division 2.19 of Part 2A of the Principal Regulations.

Subregulation 2.87A(2) currently provides that the obligation in regulation 2.87A arises immediately after the completion of the exchange mentioned in subregulation 2.72B(4). Subregulation 2.72B(4) sets out a criterion for approval of a nomination by an exchange sponsor for the purpose of the Subclass 411 (Exchange) visa.

The amendment to subregulation 2.87A(2) includes a reference to the criterion for approval of a nomination relating to a staff exchange by a new long stay activity sponsor or exchange sponsor, in subregulation 2.72J(3), which is inserted by item [119] of this Schedule.

Item [176] Paragraph 2.87A(3)(a)

This item amends paragraph 2.87A(3)(a) of Division 2.19 of Part 2A of the Principal Regulations to omit the words “the exchange sponsor” and insert “the person”.

The amendment ensures that the obligation in regulation 2.87A applies to both new long stay activity sponsors and exchange sponsors. The amendment is consequential to the amendments made by items [174] and [175] of this Schedule.

Item [177] Regulation 2.94A, heading

This item substitutes a new heading for regulation 2.94A in Division 2.20 of Part 2A of the Principal Regulations.

The new heading, “Failure to comply with certain terms of special program agreement or professional development agreement” reflects the amendments to regulation 2.94A in items [178] – [181] of this Schedule, which extend regulation 2.94A to cover professional development agreements as well as special program agreements.

Items [178] – [181] Subregulation 2.94A(1); Subregulation 2.94A(2); Paragraph 2.94A(3)(b); and Paragraph 2.94A(3)(c)

These items amend subregulation 2.94A(1) in Division 2.20 of Part 2A of the Principal Regulations.

Regulation 2.94A currently provides that a circumstance in which the Minister may bar or cancel a sponsorship under section 140M of the Act is that a person who is or was a special program sponsor has not complied with a term or condition of the special program agreement.

The amendment, in conjunction with the amendment in item [179] of this Schedule, extends the application of regulation 2.94A to a person who is or was a professional development sponsor, as well as a special program sponsor, and to a professional development agreement as well as to a special program agreement. This ensures that a consistent approach is taken to program agreements within the temporary work visa framework.

Subregulation 2.94A(2) currently provides that a circumstance in which the Minister may bar or cancel a sponsorship under section 140M of the Act is that a person who is or was a special program sponsor has not complied with a term or condition of the special program agreement.

The amendment extends the ground for cancelling or barring a sponsorship to professional development sponsors (or former professional development sponsors) who have not complied with a term or condition of the professional development agreement.

Item [182] Paragraph 4.02(1A)(a)

This item substitutes paragraph 4.01(1A)(a) with new paragraphs 4.02(1A)(aa) and (ab) in Division 4.1 of Part 4 of the Principal Regulations.

The amendment prescribes the new Subclass 401 (Temporary Work (Long Stay Activity)) visa and the new Subclass 402 (Training and Research) visa in subregulation 4.02(1A) for the purposes of paragraph 338(2)(d) of the Act.

The effect of the amendment is to prescribe that to be eligible to apply for merits review of a decision to refuse a new Subclass 401 visa or a new Subclass 402 visa, a non-citizen must either be sponsored by an approved sponsor at the time of applying for merits review of the decision to refuse the visa, or merits review of the sponsorship decision must also be pending at that time. This is consistent with the arrangements for other temporary work visas.

Items [183] and [184] Paragraph 4.02(1A)(k); and Paragraph 4.02(4)(l)

These items amend paragraph 4.02(1A)(k) and paragraph 4.02(4)(l) of Division 4.1 of Part 4 of the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa, which is effected by item [224] of this Schedule.

Item [185] Subregulation 5.38(1)

This item amends subregulation 5.38(1) in Division 5.7 of Part 5 of the Principal Regulations to omit the reference to a Subclass 426 (Domestic Worker (Diplomatic or Consular)) visa.

Regulation 5.38 sets out the fee for applying to be approved as a sponsor of an applicant for a temporary visa. Subregulation 5.38(1) provides in part that the regulation does not apply to a person who is seeking to be the sponsor of an applicant for a Subclass 426 (Domestic Worker (Diplomatic or Consular)) visa

New subregulation 5.38(1) omits the reference to the Subclass 426 visa consequential to the repeal of this subclass by item [222] of this Schedule. However, due to an oversight, the reference is already unnecessary, as no sponsorship is required for the Subclass 426 visa and, therefore, no exemption from the sponsorship fee is required.

Item [186] Schedule 1, item 1205

This item substitutes item 1205 in Part 2 of Schedule 1 to the Principal Regulations.

Item 1205 currently sets out the requirements for making a valid application for a Cultural/Social (Temporary) (Class TE) visa. Amendments made by this item, and to Schedule 2 of the Principal Regulations repeal four of the six subclasses in Class TE.

The amendment revises item 1205 to remove the requirements for making a valid application for:

- the Subclass 411 (Exchange); Subclass 421 (Sport); and Subclass 428 (Religious Worker) visas that are replaced by the new Subclass 401 (Temporary Work (Long Stay Activity)) visa; and

- the Subclass 423 (Media and Film Staff) visa that is integrated into the Subclass 420 (Temporary Work (Entertainment)) visa.

The requirements to make a valid application for a Subclass 420 (Temporary Work (Entertainment)) visa is prescribed in new Item 1235, which is inserted by item [206] of this Schedule.

The amendment changes the name of the visa class to “Special Program (Temporary) (Class TE)” to reflect that the class contains only Subclass 416 after the commencement of the amendments by this Schedule.

New item 1205 does not change the requirements for making a valid application for a Subclass 416 visa, other than to change the approved form which is currently form 147 for all visas in the class. New subitem 1205(1) provides that the approved form for making a valid application for a Class TE visa is form 1416.

#### Item [187] Schedule 1, items 1207 and 1208

This item omits items 1207 and 1208 in Part 2 of Schedule 1 to the Principal Regulations.

Item 1207 currently sets out the criteria for making a valid application for the Domestic Worker (Temporary) (Class TG) visa, which contains Subclass 426 (Domestic Worker (Diplomatic or Consular)) and Subclass 427 (Domestic Worker (Temporary) – Executive).

Under the changes in this Regulation, the Subclass 426 visa is replaced by the new Subclass 403 Temporary Work (International Relations) visa in the Domestic Worker (Diplomatic or Consular) stream. The Subclass 427 visa, which provides for a very small cohort of visa applicants, will not have a dedicated stream after 24 November 2012, and will instead have the option of applying for a Subclass 457 (Temporary Work (Skilled)) visa under the labour agreement provisions.

Item 1208 currently sets out the criteria for making a valid application for the Educational (Temporary) (Class TH) visa, which contains Subclass 406 (Government Agreement), Subclass 415 (Foreign Government Agency), Subclass 419 (Visiting Academic), and Subclass 442 (Occupational Trainee).

Alternative pathways for these cohorts in the new visas inserted by item [215] of this Schedule, are as follows:

- the Subclass 406 (Government Agreement) visa is replaced by the new Subclass 403 Temporary Work (International Relations) visa in the Government Agreement stream;
- the Subclass 415 (Foreign Government Agency) visa is replaced by the new Subclass 403 Temporary Work (International Relations) visa in the Foreign Government Agency stream;
- the Subclass 419 (Visiting Academic) visa is replaced by the new Subclass 402 (Training and Research) visa in the Research stream; and

- the Subclass 442 (Occupational Trainee) visa is replaced by the new Subclass 402 (Training and Research) visa in the Occupational Trainee stream.

Item [188] Schedule 1, item 1220B

This item omits item 1220B from Part 2 of Schedule 1 to the Principal Regulations.

Item 1220B sets out the criteria for making a valid application for a Sponsored Training (Temporary) (Class UV) visa, which contains Subclass 470 (Professional Development).

The Subclass 470 (Professional Development) visa is replaced by the new Subclass 402 (Training and Research) visa in the Professional Development stream, which is inserted in the Principal Regulations by item [215] of this Schedule.

Item [189] – [192] Schedule 1, subparagraph 1223A(1)(b)(i); subparagraph 1223A(1)(ba)(i); subparagraph 1223A(1)(bb)(i); and subparagraph 1223A(1)(bc)(i)

These items amend paragraphs 1223A(1)(b), (ba), (bb) and (bc) in Part 2 of Schedule 1 to the Principal Regulations.

The amendments replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [193] Schedule 1, subparagraph 1223A(2)(a)(iii)

This item substitutes subparagraph 1223A(2)(a)(iii) in Part 2 of Schedule 1 to the Principal Regulations.

The new subparagraph 1223A(2)(a)(iii) removes the words “Subject to subparagraphs (v) and (vi)”, and is consequential to the amendment made by item [194] of this Schedule.

The new subparagraph 1223A(2)(a)(iii) also replaces the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa, effected by item [224] of this Schedule.

The purpose of this amendment is to provide that Subclass 457 (Temporary Work (Skilled)) visa applicants are liable to pay the visa application charge.

Item [194] Schedule 1, subparagraph 1223A(2)(a)(v)

This item omits subparagraph 1223A(2)(a)(v) in Part 2 of Schedule 1 to the Principal Regulations.

Subparagraph 1223A(2)(a)(v) provides that there is no visa application charge in respect of an application for a Subclass 457 visa by a person to whom “privileges and immunities” are, or are expected to be, accorded under specified legislation, and who is expected to be recommended by the Foreign Minister for the grant of a visa. The

visa application criteria for this cohort are set out at subparagraph 457.223(9) of Schedule 2 of the Principal Regulations.

Subparagraph 1223A(2)(a)(v) is omitted because the “privileges and immunities” stream is removed from the Subclass 457 visa and incorporated into new Subclass 403 Temporary Work (International Relations) visa in the Privileges and Immunities stream, created by item [215] of this Schedule.

Item [195] Schedule 1, paragraph 1223A(3)(aa)

This item substitutes paragraph 1223A(3)(aa) in Part 2 of Schedule 1 to the Principal Regulations.

New paragraph 1223A(3)(aa) omits references to paragraphs (ad) and (ae), omitted by item [196] of this Schedule.

New paragraph 1223A(3)(aa) also replaces the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

The effect of this amendment is to provide that, subject to paragraphs 1223A(3)(af) and (ag), an application for a Subclass 457 visa may be made in or outside Australia, but not in immigration clearance.

Item [196] Schedule 1, paragraphs 1223A(3)(ad) and (ae)

This item omits paragraphs 1223A(3)(ad) and (ae) in Part 2 of Schedule 1 to the Principal Regulations.

Paragraphs 1223A(3)(ad) and (ae) currently specify lodgement arrangements for applicants who hold a Subclass 457 visa on the basis of satisfying the requirements of subclause 457.223(7), or as the spouse or de facto partner of a person who holds a Subclass 457 visa on that basis. Subclause 457.223(7) was a limb of the Independent Executive category that was repealed on 14 September 2007, and these dedicated arrangements are no longer required.

The purpose of this amendment is to repeal the redundant provisions.

Item [197] Schedule 1, subparagraph 1223A(3)(af)(i)

This item substitutes subparagraph 1223A(3)(af)(i) in Part 2 of Schedule 1 to the Principal Regulations.

New subparagraph 1223A(3)(af)(i) replaces the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa, by item [224] of this Schedule.

Item [198] Schedule 1, subparagraph 1223A(3)(af)(ii)

This item amends subparagraph 1223A(3)(af)(ii) in Part 2 of Schedule 1 to the Principal Regulations to omit the reference to subparagraph 457.223(10).



Paragraph 1223A(3)(af) specifies that certain applicants for a Subclass 457 visa must make the application in Australia, as an Internet application. Subparagraph 1223A(3)(af)(ii) currently provides that this requirement applies to an applicant who seeks to satisfy the requirements of subclause 457.223(2), (4) or (10).

Subclause 457.223(10) refers to visa applicants who are relying on the basis of an occupation which is the subject of an 'IASS Agreement'. As IASS Agreements are no longer in use, all references are omitted from the Principal Regulations.

The purpose of the amendment is repeal redundant provisions.

Item [199] – [201] Schedule 1, subparagraph 1223A(3)(ag)(i); subparagraph 1223A(3)(c)(i); and subparagraph 1223A(3)(ca)(i)

These items amend paragraphs 1223A(3)(ag), (c) and (ca) in Part 2 of Schedule 1 to the Principal Regulations.

The amendments replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [202] – Schedule 1, subparagraph 1223A(3)(ca)(ii)

This item amends subparagraph 1223A(3)(ca)(ii) in Part 2 of Schedule 1 to the Principal Regulations to omit the reference to subparagraph 457.223(10).

Paragraph 1223A(3)(ca) specifies that applicants seeking to satisfy the secondary criteria for a Subclass 457 visa as a member of the family unit of an applicant who satisfies subclause 457.223(2), (4) or (10) must make the application in Australia, as an internet application.

The amendment omits the reference to subclause 457.223(10) consequential to amendments made by item [198] of this Schedule.

Item [203] – [205] Schedule 1, paragraph 1223A(3)(d); paragraph 1223A(3)(da); and subitem 1223A(4)

These items amend paragraphs 1223A(3)(d) and (da) and subitem 1223A(4) of Part 2 of Schedule 1 to the Principal Regulations.

The amendments replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”, consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [206] Schedule 1, after item 1230

This item inserts four new items 1232, 1233, 1234, and 1235 in Part 2 of Schedule 1 to the Principal Regulations.

1232. Temporary Work (Long Stay Activity) (Class GB)

New item 1232 sets out the requirements for making a valid application for the Temporary Work (Long Stay Activity) (Class GB) visa. This visa class includes only one subclass: the Subclass 401 (Temporary Work (Long Stay Activity)) visa. The Subclass 401 visa replaces the Subclass 411 (Exchange) visa, the Subclass 421 (Sport) visa and the Subclass 428 (Religious Worker) visa, which are repealed by items [217], [221] and [222] of this Schedule. The requirements for making a valid application for a Subclass 411, Subclass 421 or Subclass 428 visa are currently prescribed in the Cultural/Social (Temporary) (Class TE) visa in item 1205 of Part 2 of Schedule 1 to the Principal Regulations. To give effect to the repeal of these visas, item [186] of this Schedule removes the application requirements relating to these visas from item 1205.

The requirements for making a valid application for a Temporary Work (Long Stay Activity) (Class GB) visa in new item 1232 broadly reflect the current requirements for making a valid application for a Cultural/Social (Temporary) (Class TE) visa, with minor changes and clarifications to the policy settings.

New subitem 1232(1) provides that the approved form is form 1401.

New paragraph 1232(2)(a) provides that the first instalment of the visa application charge (VAC) is \$315, unless the applicant is:

- outside Australia at the time of application and a member of a sporting body comprising at least 10 other applicants who make applications at the same time and place, in which case the VAC is \$3150 divided by the number of applicants; or
- in a class of persons specified by the Minister in an instrument in writing, in which case there is a nil VAC. This complements the nil fee provision for nominations in subregulation 2.73A(4) as amended by item [123] of this Schedule, and is intended to provide flexibility for a nil fee to be paid where an applicant will participate in certain sporting events as they arise.

Paragraph 1232(2)(b) provides that the second instalment of the visa application charge (VAC) is nil.

New subitem 1232(3) sets out the other requirements for making a valid application for a visa of the new Class GB. Paragraph 1232(3)(a) requires that if the applicant is in Australia, the application must be made by posting, delivering by courier or otherwise by hand, or faxing the application to the address specified by the Minister in an instrument in writing. New paragraph 1232(3)(b) requires that if the applicant is outside Australia, the application must be made at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia.

New paragraph 1232(3)(c) clarifies that an applicant may be in or outside Australia, but not in immigration clearance, when the application is made.

New subparagraph 1232(3)(d)(i) provides that the application must specify the person who has identified the applicant in a nomination for the purposes of section 140GB of

the Act. This requires that the applicant has been nominated at the time of applying for the visa. This differs from the current requirement in item 1205 for the Class TE visa which allows the nomination to be made after the visa application has been made.

New subparagraph 1232(3)(d)(ii) provides that the application must also specify that the person who has identified in the applicant in a nomination is a long stay activity sponsor, an exchange sponsor, a sport sponsor or a religious worker sponsor, or a person who has applied for approval as one of those classes of sponsor. The amendments made by items [54] and [56] of this Schedule ensure that an application for an exchange sponsor, sport sponsor or religious worker sponsor cannot be made on or after 24 November 2012, however, as a transitional measure, a person who has been approved as one of these classes of sponsor can make a nomination identifying a Subclass 401 visa applicant.

New paragraph 1232(3)(e) provides for combined applications to be made.

New subitem 1232(4) provides that the new Subclass 401 (Temporary Work (Long Stay Activity)) visa is the only subclass of the Class GB visa.

### 1233. Training and Research (Class GC)

New item 1233 sets out the requirements for making a valid application for the new Training and Research (Class GC) visa. This visa class includes only one subclass: the new

Subclass 402 (Training and Research) visa. The new Subclass 402 visa replaces the Subclass 419 (Visiting Academic), Subclass 442 (Occupational Trainee) and Subclass 470 (Professional Development) visas, which are repealed by items [219], [223] and [245] of this Schedule. The requirements for making a valid application for a Subclass 419 or Subclass 442 visa are currently included in the Educational (Temporary) (Class TH) visa in item 1208 of Schedule 1 to the Principal Regulations. The requirements for making a valid application for a Subclass 470 visa are currently included in the Sponsored Training (Temporary) (Class UV) visa in item 1220B of Schedule 1 to the Principal Regulations. To give effect to the repeal of these visas, items [187] and [188] of this Schedule remove items 1208 and 1220B from Schedule 1 to the Principal Regulations.

New subitem 1233(1) provides that the approved form is form 1402.

New paragraph 1233(2)(a) provides that the first instalment of the visa application charge (VAC) is \$315.

New paragraph 1233(2)(b) provides that the second instalment of the visa application charge (VAC) is nil.

New subitem 1233(3) sets out the other requirements for making a valid application for the new Class GC visa. Paragraph 1232(3)(a) requires that applicants in a class of persons specified by the Minister in an instrument in writing must make an application by post, by courier or otherwise by hand, or by fax, to an address specified in the instrument; or at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth. Paragraph 1232(3)(b) provides for combined applications to be made.

New subitem 1233(4) sets out in a table the other requirements for making a valid application for a Subclass 402 visa in the Occupational Trainee stream. Item 1 of the table specifies the required location of the applicant at the time of application. Items 2 and 3 of the table set out certain requirements in relation to sponsorship and nomination depending on whether the applicant seeks to undertake a program of occupational training that will, or will not, be provided by the Commonwealth.

New subitem 1233(5) sets out in a table the other requirements for making a valid application for a Subclass 402 visa in the Research stream. Item 1 of the table specifies the required location of the applicant at the time of application. Item 2 of the table set out certain requirements in relation to sponsorship of the applicant.

New subitem 1233(6) sets out in a table the other requirements for making a valid application for a Subclass 402 visa in the Professional Development stream. Item 1 of the table specifies the required location of the applicant at the time of application. Item 2 of the table sets out certain requirements in relation to sponsorship of the applicant.

New subitem 1233(7) provides that the new Subclass 402 (Training and Research) visa is the only subclass included in the Class GC visa.

1234. Temporary Work (International Relations)(Class GD)

New item 1234 sets out the requirements for making a valid application for the new Temporary Work (International Relations)(Class GD) visa. This visa class includes only one subclass: the new Subclass 403 (Temporary Work (International Relations)) visa. The new Subclass 403 visa replaces the privileges and immunities streams in the Temporary Business Entry (Class UC) visa and the Subclass 406 (Government Agreement), Subclass 415 (Foreign Government Agency) and Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular)) visas, which are repealed by items [216], [218] and [222] of this Schedule.

The requirements for making a valid application for Subclass 406 and Subclass 415 visas are included in the Educational (Temporary) (Class TH) visa in item 1208 of Schedule 1 to the Principal Regulations. The requirements for making a valid application for a Subclass 426 visa are currently included in the Domestic Worker (Temporary) (Class TG) visa in item 1207 of Schedule 1 to the Principal Regulations. To give effect to the repeal of these visas, item [187] of this Schedule omits items 1207 and 1208 from Schedule 1 to the Principal Regulations.

New subitem 1234(1) provides that the approved form is form 1403.

New paragraph 1234(2)(a) provides that the first instalment of the visa application charge (VAC) is \$315, except in the following circumstances, in which case the first instalment is nil:

- the applicant is a person to whom privileges and immunities are, or are expected to be, accorded under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and the applicant is expected to be recommended by the Foreign Minister for the grant of a visa; or

- the applicant holds a valid diplomatic, official or service passport, and holds a third person note of support for the application from the government, or a government agency, of the applicant's home country; or
- the applicant is in a class of persons specified by the Minister in an instrument in writing.

New paragraph 1234(2)(b) provides that the second instalment of the visa application charge (VAC) is nil.

New subitem 1234(3) sets out other requirements for making a valid application for the new Class GD visa. New paragraph 1234(3)(b) requires that if the applicant is in Australia, the application must be made by posting; delivering by courier, or otherwise by hand; or faxing the application to the address specified by the Minister in an instrument in writing. Paragraph 1234(3)(b) requires that if the applicant is outside Australia, the application must be made at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia.

New paragraph 1234(3)(c) clarifies that an applicant may be in or outside Australia, but not in immigration clearance, when the application is made. Paragraph 1234(3)(d) provides for combined applications to be made.

New subitem 1234(4) provides that the new Subclass 403 (Temporary Work (International Relations)) is the only subclass in the Class GD visa.

1235. Temporary Work (Entertainment) (Class GE)

New item 1235 sets out the requirements for making a valid application for the new Temporary Work (Entertainment) (Class GE) visa. This visa class includes only one subclass: the Subclass 420 (Temporary Work (Entertainment)) visa. The Subclass 420 visa is amended by item [220] below, to restructure and harmonise criteria in accordance with the new temporary work visas created by this Schedule. The amendments to Part 420 of Schedule 2 to the Principal Regulations also cater for the cohort of applicants making a documentary or commercial for overseas use in the current Subclass 423 (Media and Film Staff) visa. The Subclass 423 visa is repealed by item [222] of this Schedule.

The requirements for making a valid application for a Subclass 420 visa or a Subclass 423 visa are currently included in the Cultural/Social (Temporary) (Class TE) visa in item 1205 of Schedule 1 to the Principal Regulations. Item 1205 is renamed by item [186] of this Schedule as the Special Program (Temporary) (Class TE) visa and contains only one subclass, the Subclass 416 (Special Program) visa.

The requirements for making a valid application for a Temporary Work (Entertainment) (Class GE) visa broadly reflect the current requirements for making a valid application for a Cultural/Social (Temporary) (Class TE) visa, with minor changes and clarifications to the policy settings.

New subitem 1235(1) provides that the approved form is form 1420.

The table for paragraph 1235(2)(a) provides that the first instalment of the visa application charge (VAC) is \$315, unless the applicant is outside Australia at the time of application and:

- appears on the basis of the information contained in the application, to have been nominated under section 140GB of the Act to perform as an entertainer or to support an entertain in relation to non-profit engagements; or
- appears on the basis of the information contained in the application to have been nominated under section 140GB of the Act by an organisation wholly or partially funded by the Commonwealth and approved for this item by the Secretary; or
- is a member of an entertainment body comprising at least 10 other applicants who make applications at the same time and place, in which case the VAC is \$3150 divided by the number of applicants.

New paragraph 1235(2)(b) provides that the second instalment of the visa application charge (VAC) is nil.

New subitem 1235(3) sets out the other requirements for making a valid application for the Class GE visa. New paragraph 1235(3)(a) requires that an application must be made by posting, delivering by courier or otherwise by hand, or faxing the application to the address specified by the Minister in an instrument in writing. Paragraph 1232(3)(b) clarifies that an applicant may be in or outside Australia, but not in immigration clearance, when the application is made.

New subparagraph 1235(3)(c)(i) provides that the application must specify the person who has identified the applicant in a nomination for the purposes of section 140GB of the Act. This requires that the applicant has been nominated at the time of applying for the visa. This differs from the current requirement in item 1205 for the Class TE visa which allows the nomination to be made after the visa application has been made.

New subparagraph 1235(3)(c)(ii) provides that the application must also specify that the person who has identified the applicant in a nomination must be an entertainment sponsor, or a person who has applied for approval as an entertainment sponsor.

New paragraph 1235(3)(d) provides for combined applications to be made.

New subitem 1235(4) provides that the new Subclass 420 (Temporary Work (Entertainment)) visa is the only subclass in the Class GE visa.

Items [207] – [209] Schedule 1, subitem 1301(1); subitem 1303(1); and subitem 1305(1)

These items amend subitems 1301(1), 1303(1) and 1305(1) of Part 3 of Schedule 1 to the Principal Regulations to insert references to new forms 1401, 1402, 1403, 1416 and 1420.

Subitem 1301(1) prescribes the forms that may be used to apply for a Bridging A (Class WA) visa. Subitem 1303(1) prescribes the forms that may be used to apply for

a Bridging C (Class WC) visa. Subitem 1305(1) prescribes the forms that may be used to apply for a Bridging E (Class WE) visa.

The amendments are consequential to amendments made by items and [186] and [206] of this Schedule which prescribe five new application forms.

The purpose of these amendments is to ensure that an applicant for one of the temporary work visas inserted or amended by this Regulation, may also be an applicant for a Class WA, Class WC and Class WE visa.

Item [210] – [211] Schedule 2, paragraph 010.611(3C)(a); and paragraph 020.611(4A)(a)

These items amend paragraphs 010.611(3C)(a) and paragraph 020.611(4A)(a) in Part 010 of Schedule 2 to the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendments are consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [212] Schedule 2, sub-subparagraph 303.212(a)(i)(B)

This item omits sub-subparagraph 303.212(a)(i)(B) in Part 303 of Schedule 2 to the Principal Regulations.

The amendment is consequential to the changes made by item [213] of this Schedule, and reflects the name change of the Cultural/Social (Temporary) (Class TE) visa to the Special Program (Temporary) (Class TE) visa.

Item [213] Schedule 2, sub-subparagraph 303.212(a)(i)(N)

This item substitutes sub-subparagraph 303.212(a)(i)(N) in Part 303 of Schedule 2 to the Principal Regulations and insert additional sub-subparagraphs 303.212(a)(i)(O) to (S).

Part 303 sets out the criteria for the grant of a Subclass 303 Emergency (Temporary Visa Applicant) visa. This visa permits temporary entry to Australia by prescribed visa applicants in prescribed circumstances. Clause 303.212 provides that the applicant must be an applicant for one of a list of temporary visa classes, who has satisfied all of the visa criteria with the exception of the public interest criteria or criteria that can only be satisfied after the applicant has entered Australia.

The amendment adds references to the following visa classes which are inserted or amended in the Principal Regulations by this Regulation:

- Temporary Work (Long Stay Activity) (Class GB) visa;
- Training and Research (Class GC);
- Temporary Work (International Relations) (Class GD);
- Temporary Work (Entertainment) (Class GE); and

- Special Program (Temporary) (Class TE).

Item [214] Schedule 2, subparagraph 303.212(a)(ii)

This item amends subparagraph 303.212(a)(ii) of Part 303 of Schedule 2 to the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [215] Schedule 2, after Part 309

This item inserts three new parts in Schedule 2 to the Principal Regulations:

- Part 401 – Subclass 401 (Temporary Work (Long Stay Activity)) visa
- Part 402 – Subclass 402 (Training and Research) visa
- Part 403 – Subclass 403 (Temporary Work (International Relations)) visa

Details of the new Parts are as follows:

*Part 401 Subclass 401 Temporary Work (Long Stay Activity)*

New Part 401 sets out the criteria and other provisions in relation to the grant of a Subclass 401 (Temporary Work (Long Stay Activity)) visa. The new Subclass 401 visa replaces the Subclass 411 (Exchange) visa, the Subclass 421 (Sport) visa and the Subclass 428 (Religious Worker) visa, which are repealed by items [217], [221] and [222] of this Schedule.

Many of the criteria for the new Subclass 401 are consistent with the criteria for the repealed visas that it replaces.

The new Subclass 401 visa is the only subclass in the new Temporary Work (Long Stay Activity) (Class GB) visa, inserted in Part 2 of Schedule 1 to the Principal Regulations by item [206] of this Schedule.

Applicants seeking to satisfy the primary criteria for a Subclass 401 visa are required to satisfy the common criteria and the criteria for the stream in which they have applied. There are three streams in the Subclass 401 visa: the Exchange stream, the Sport stream and the Religious Worker stream. Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria for the visa.

The Subclass 401 visa also provides a visa pathway for members of the family unit of a person who holds a Subclass 411, Subclass 421 or Subclass 428 visa on the basis of satisfying the primary criteria. This is consequential to the repeal of these visas which will prevent any further visa applications for visas of those subclasses being made on or after 24 November 2012.



Details of the provisions of the new Part 401 (Subclass 401 visa) are as follows:

*Division 401.1 – Interpretation*

This Division sets out the meaning of certain terms used in the Subclass 401 visa.

*Division 401.2 – 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 401 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Exchange stream: Subdivisions 401.21 and 401.22;
- Sport stream: Subdivisions 401.21 and 401.23; and
- Religious Worker stream: Subdivisions 401.21 and 401.24.

The note further provides that the primary criteria must be satisfied by at least one member of the family unit. An exception applies where the applicant is a member of the family unit of a person who holds a Subclass 411 visa, a Subclass 421 visa or a Subclass 428 visa on the basis of satisfying the primary criteria for that visa.

The note also provides that all criteria must be satisfied at the time a decision is made on the application.

*Subdivision 401.21 – Common criteria*

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require that applicants who were in Australia at the time of application did not hold, or did not last hold, a substantive visa of a type listed in paragraph 401.211(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria.

The common criteria also require that the applicant is identified in a nomination of an occupation or activity made by a long stay activity sponsor, an exchange sponsor, a sport sponsor or a religious worker sponsor approved under section 140GB of the Act.

The common criteria also require the applicant to satisfy certain requirements relating to health insurance, a genuine intention to stay in Australia temporarily, adequate means of support, public interest criteria and special return criteria.

*Subdivision 401.22 – Criteria for the Exchange stream*

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Exchange stream.

These criteria require the applicant to be identified in a nomination by a long stay activity sponsor who is a party to an exchange agreement, or an exchange sponsor. The nomination must meet the criteria in subregulation 2.72J(3), inserted by item [119] of this Schedule. Subregulation 2.72J(3) sets out the criteria to be met where the nomination relates to a staff exchange.

The long stay activity sponsor class is created by item [57] of this Schedule and replaces, among other classes, the exchange sponsor class, which is closed by item [54] of this Schedule.

The criteria also require that the exchange agreement between the approved sponsor and a reciprocating foreign organisation that was a requirement for approval of the nomination, is still in place.

#### Subdivision 401.23 – Criteria for the Sport stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Sport stream.

These criteria require the applicant to be identified in a nomination by a long stay activity sponsor who is a sporting organisation, or a sport sponsor. The nomination must meet the criteria in subregulation 2.72J(4), inserted by item [119] of this Schedule.

Subregulation 2.72J(4) sets out the criteria to be met where the nomination relates to a sporting activity.

The long stay activity sponsor class is created by item [57] of this Schedule and replaces, among other classes, the sport sponsor class, which is closed by item [56] of this Schedule.

The criteria also require that if a formal arrangement was required for approval of the nomination, that arrangement must still be in place at the time the decision is made on the application.

#### Subdivision 401.24 – Criteria for the Religious Worker stream

A note clarifies that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Religious Worker stream.

These criteria require the applicant to be identified in a nomination by a long stay activity sponsor who is a religious institution, or a religious worker sponsor. The nomination must meet the criteria in subregulation 2.72J(5), inserted by item [119] of this Schedule. Subregulation 2.72J(5) sets out the criteria to be met where the nomination relates to religious work.

The long stay activity sponsor class is created by item [57] of this Schedule and replaces (among other classes) the religious worker sponsor class, which is closed by item [56] of this Schedule.

#### *Division 401.3 – 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 401 visa on the basis of a close family relationship with a person who satisfies the primary criteria for the grant of a Subclass 401 visa. An applicant may also meet the secondary criteria if they are the member of the family unit of a person who holds a Subclass 411 visa, a Subclass 421 visa or a Subclass 428 visa on the basis of satisfying the primary criteria.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as other requirements as prescribed. In particular, the approved sponsor of the primary applicant must have agreed to be the approved sponsor of the secondary applicant.

*Division 401.4 – Circumstances applicable to grant*

This Division provides that if the application is made in Australia, the applicant must be in Australia when the visa is granted but must not be in immigration clearance. If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

*Division 401.5 – When visa is in effect*

This Division provides that the visa is a temporary visa, and sets out when the applicant is permitted to travel to, enter and remain in Australia.

*Division 401.6 – Conditions*

This Division sets out the Schedule 8 conditions which must, or may, be attached to the visa depending on whether the applicant has satisfied the primary or secondary criteria.

*Part 402 – Subclass 402 (Training and Research)*

New Part 402 sets out the criteria and other provisions in relation to a Subclass 402 (Training and Research) visa. The new Subclass 402 replaces three existing temporary visas relating to training and research, the Subclass 419 (Visiting Academic), Subclass 442 (Occupational Trainee) and Subclass 470 (Professional Development) visas, which are repealed by items [219], [223] and [245] of this Schedule. Many of the criteria for the new Subclass 402 visa are consistent with the criteria for the repealed visas that it replaces.

The new Subclass 402 visa is the only subclass in the new Training and Research (Class GC) visa which is inserted in Part 2 of Schedule 1 to the Principal Regulations by item [206] of this Schedule.

Applicants seeking to satisfy the primary criteria for a Subclass 402 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 402 visa: the Occupational Trainee stream (which includes Sports Trainees), the Research stream and the Professional Development stream. Applicants who are members of the family unit of an applicant who satisfies the primary criteria need satisfy only the secondary criteria.

The Subclass 402 visa also provides a visa pathway for members of the family unit of a person who holds a Subclass 419 or a Subclass 442 visa on the basis of satisfying the primary criteria. This is consequential to the repeal of these visas in relation to all visa applications made on or after 24 November 2012.

Details of the provisions of new Subclass 402 (Training and Research) are as follows:

*Division 402.1 – Interpretation*

This Division sets out the meaning of certain terms used specifically in Subclass 402.

*Division 402.2 – 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 402 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Occupational Trainee stream: Subdivisions 402.21 and 402.22;
- Research stream: Subdivisions 402.21 and 402.23; and
- Professional Development stream: Subdivisions 402.21 and 402.24.

The note further provides that the primary criteria must be satisfied by at least one member of the family unit. An exception applies where the applicant is a member of the family unit of a person who holds a Subclass 419 visa or a Subclass 442 visa on the basis of satisfying the primary criteria for that visa.

The note also provides that all criteria must be satisfied at the time a decision is made on the application.

*Subdivision 402.21 – Common criteria*

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require that applicants who were in Australia at the time of application did not hold, or did not last hold, a substantive visa of a type listed in paragraph 402.211(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria. The criteria also require the applicant to have turned 18, unless the applicant is participating in occupational training relating to sport or there are exceptional circumstances.

The common criteria also require the applicant to satisfy certain requirements relating to health insurance, a genuine intention to stay in Australia, adequate means of support, public interest criteria and special return criteria.

*Subdivision 402.22 – Criteria for Occupational Trainee stream*

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Occupational Trainee stream.

These criteria require that unless the occupational training is to be provided to the applicant by the Commonwealth, the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act. The nomination must be made by a person who was a training and research sponsor or an occupational trainee sponsor at the time the nomination was approved and must meet

the criteria in regulation 2.72I, as amended by this Schedule. Regulation 2.72I sets out the criteria to be met where the nomination relates to occupational training.

Where the occupational training is to be provided to the applicant by the Commonwealth, a training and research sponsor or an occupational trainee sponsor must have agreed, in writing, to be the approved sponsor in relation to the applicant.

The training and research sponsor class is created by item [57] of this Schedule and replaces, among other classes, the occupational trainee sponsor class, which is closed by item [56] of this Schedule

The criteria require that holders of certain student visas in Australia at the time of application must meet certain requirements in relation to their course of study in Australia.

#### Subdivision 402.23 – Criteria for Research stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Research stream.

These criteria require that a training and research sponsor or a visiting academic sponsor has agreed in writing to be the approved sponsor in relation to the applicant, and set out further requirements in relation to the approved sponsor.

The criteria further require that the applicant must observe or participate in an Australian research project, must be employed or formerly employed as an academic, must have a significant record of achievement in his or her field, and must not receive a salary, sponsorship or allowance.

#### Subdivision 402.24 – Criteria for Professional Development stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Professional Development stream.

These criteria require that a Professional Development sponsor has agreed in writing to be the approved sponsor in relation to the applicant, and set out further requirements in relation to the approved sponsor.

The criteria further require, broadly, that the applicant has the skills and work experience relevant to the professional development program. The criteria also set out further requirements in relation to the overseas employment of the applicant, the ability of the applicant and approved sponsor to meet their financial commitments under the agreement, and the applicant's English language proficiency.

#### *Division 402.3 – 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 402 visa on the basis of a close family relationship with a person who satisfies the primary criteria for the grant of a Subclass 402 visa in the Occupational Trainee stream or the Research stream. A person may also meet the secondary criteria if they are the member of the family unit

of a person who holds a Subclass 419 visa or a Subclass 442 visa on the basis of satisfying the primary criteria.

Consistent with current policy settings for the Subclass 470 visa, there are no secondary criteria applicable to members of the family unit of a Subclass 402 visa in the Professional Development stream.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as other requirements as prescribed. In particular, the approved sponsor of the primary applicant must have agreed to be the approved sponsor of the secondary applicant, unless the primary applicant holds a Subclass 419 or Subclass 442 visa for which they applied before 14 September 2009 when the Worker Protection framework was introduced.

#### *Division 402.4 – Circumstances applicable to grant*

This Division provides that an applicant for a Subclass 402 visa in the Professional Development stream must be outside Australia when the visa is granted. Otherwise, the applicant may be in or outside Australia when the visa is granted but must not be in immigration clearance.

#### *Division 402.5 – When visa is in effect*

This Division provides that the visa is a temporary visa, and sets out when the applicant is permitted to travel to, enter and remain in Australia.

#### *Division 402.6 – Conditions*

This Division sets out the Schedule 8 conditions which must, or may, be attached to the visa depending on which stream the applicant's visa has been granted in and whether the applicant has satisfied the primary or secondary criteria.

#### *Part 403 Subclass 403 (Temporary Work (International Relations)) visa*

New Part 403 sets out the criteria and other provisions in relation to a Subclass 403 (Temporary Work (International Relations)) visa. The new Subclass 403 visa replaces the Subclass 406 (Government Agreement), Subclass 415 (Foreign Government Agency) and Subclass 426 (Domestic Worker (Temporary) –Diplomatic or Consular) visas, which are repealed by items [216], [218] and [222] of this Schedule. It also includes the 'privileges and immunities' streams currently in the Subclass 456 (Business (Short Stay)) and Subclass 457 (Business (Long Stay)) visas.

The new Subclass 403 visa is the only subclass in the new Temporary Work (International Relations)(Class GD) visa which is inserted as new item 1234 in Part 1 of Schedule 1 to the Principal Regulations by item [206] of this Schedule.

There is no sponsorship requirement in relation to an application for the Subclass 403 visa. With this exception, many of the criteria for the Subclass 403 visa are consistent with the criteria for the repealed visas that it replaces.

Applicants seeking to satisfy the primary criteria for the grant of a Subclass 403 visa are required to satisfy the common criteria and also the criteria for a stream. There are four streams in Subclass 403:

- the Government Agreement stream;
- the Foreign Government Agency stream;
- the Domestic Worker (Diplomatic or Consular) stream; and
- the Privileges and Immunities stream.

The applicant needs to meet the criteria in only one of these streams, in addition to the common criteria, to be eligible for the visa (provided all other requirements are also met). 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 the new Part 403 (Subclass 403 visa) are as follows:

#### *Division 403.1 – Interpretation*

This Division sets out the meaning of certain terms used specifically in Subclass 403.

#### *Division 403.2 – 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 403 visa. The note provides that an applicant for a Subclass 403 will be assessed against as many streams as necessary regardless of whether the applicant specifies a particular stream in their application. The applicant must satisfy the common criteria in subdivision 403.21 and the criteria for one of the streams in one of subdivisions 403.22 to 403.25. Subdivisions 403.22 to 403.25 will be used in turn as primary criteria for the grant of the visa.

The note for this Division further provides that the primary criteria must be satisfied by at least one member of the family unit. An exception applies where the applicant is a member of the family unit of a person who holds a Subclass 406 visa or a Subclass 415 visa on the basis of satisfying the primary criteria for that visa.

The note also provides that all criteria must be satisfied at the time a decision is made on the application.

#### *Subdivision 403.21 – Common Criteria*

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require the applicant to satisfy certain requirements relating to health insurance, a genuine intention to stay in Australia and adequate means of support. The criteria also require the primary applicant to satisfy certain public interest criteria and special return criteria.

#### Subdivision 403.22 – Criteria for Government Agreement stream

These criteria require that applicants who were in Australia at the time of application did not hold, or did not last hold, a substantive visa of a type listed in paragraph 403.221(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria. The temporary visas that an applicant may not hold are not common across all the streams of this visa, but reflect the current requirements for each cohort.

The criteria further require that the applicant will be engaged in work or an activity in accordance with the terms and conditions of an agreement between an Australian government and foreign government and the applicant meets the requirements of that agreement. The criteria also include requirements in relation to support for the applicant's to stay in Australia by the parties to the agreement and relevant national foreign government, provision of a letter (if required by the Minister) stating that certain requirements are met in relation to the applicant's employment or engagement in Australia.

The criteria also require the applicant to satisfy certain additional public interest criteria that are not common across all the streams in this visa.

#### Subdivision 403.23 – Criteria for Foreign Government Agency stream

These criteria require that applicants who were in Australia at the time of application did not hold, or did not last hold, a substantive visa of a type listed in paragraph 403.231(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria. The temporary visas that an applicant may (or may not) hold are not common across all the streams of this visa, but reflect the current requirements for this cohort of applicant.

The criteria further require that the applicant be a person who either seeks to enter Australia to be employed as a representative of a foreign government agency that does not have official status in Australia, or a foreign language teacher intending to work in an Australian school as an employee of a foreign government. Applicants are also required to show a benefit to Australia arising from their employment or engagement in Australia and the foreign government agency's support of their application.

The criteria also require the applicant to satisfy certain additional certain public interest criteria that are not common across all the streams in this visa.

#### Subdivision 403.24 – Criteria for Domestic Worker (Diplomatic or Consular) stream

These criteria require that applicants who were in Australia at the time of application held, or last held, a substantive visa of a type listed in paragraph 403.241(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria. The temporary visas that an applicant may hold are not common across all the streams of this visa, but reflect the current requirements for this cohort of applicant.

The criteria require that if the application is made in Australia, the applicant must be undertaking full-time domestic duties in the household of a Subclass 995 (Diplomatic



(Temporary)) visa holder with which the applicant has entered into an employment agreement.

If the application is made outside Australia, the applicant must have turned 18 and must be seeking to undertake full-time domestic duties in the household of a Subclass 995 visa holder who has entered into an employment agreement with the applicant. The applicant must be employed or engaged in Australia in accordance with the appropriate working conditions provided for under the relevant Australian legislation and awards.

All applicants for this visa must have the support of the Foreign Minister. The criteria also require the applicant to satisfy certain additional certain public interest criteria that are not common across all the streams in this visa.

#### Subdivision 403.25 – Criteria for Privileges and Immunities stream

These criteria require that applicants who were in Australia at the time of application did not hold, or did not last hold, a substantive visa of a type listed in paragraph 403.251(a). Applicants who did not hold a substantive visa at the time of application are also required to satisfy prescribed Schedule 3 criteria. The temporary visas that an applicant may not hold are not common across all the streams of this visa, but reflect the current requirements for this cohort of applicant.

These criteria further require that the applicant be a person to whom privileges and immunities are, or are expected to be, accorded under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*, and that the application has the support of the Foreign Minister.

There are no additional public interest criteria to be satisfied in this stream.

#### Division 403.3 – 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 403 visa on the basis of a close family relationship with a person who satisfies the primary criteria for the grant of a Subclass 403 visa. However, consistent with current arrangements for the Subclass 426 visa, the criteria do not provide for members of the family unit of a person who holds a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream.

A person may also meet the secondary criteria if they are the member of the family unit of a person who holds a Subclass 406 visa or a Subclass 415 visa on the basis of satisfying the primary criteria. Similar transitional arrangements have not been introduced for members of the family unit of a person who holds a Subclass 456 and 457 visa on the basis of satisfying the criteria in relation to privileges and immunities. These family members are still able to access these visas as secondary applicants.

Secondary applicants are required to meet certain public interest criteria and special return criteria, as well as other requirements as prescribed.

#### *Division 403.4 – Circumstances Applicable to grant*

This Division provides that if the application is made in Australia, the applicant must be in Australia when the visa is granted but must not be in immigration clearance. If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

#### *Division 403.5 – When visa is in effect*

This Division provides that the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia

#### *Division 403.6 – Conditions*

This Division sets out the Schedule 8 conditions which must, or may, be attached to the visa depending on which stream the applicant's visa has been granted in and whether the applicant has satisfied the primary or secondary criteria.

#### Item [216] Schedule 2, Part 406

This item omits Part 406 of Schedule 2 to the Principal Regulations.

Part 406 provides the criteria for the Subclass 406 (Government Agreement) visa. The amendment repeals the Subclass 406 visa, which is replaced by the new Subclass 403 (Temporary Work (International Relations)) visa in the Government Agreement stream. The Subclass 403 visa is inserted by item [215] of this Schedule.

Applicants who previously may have applied for a Subclass 406 visa are required to apply for a Subclass 403 visa in the Government Agreement stream, with the exception of applicants seeking a visa to direct the national operations in Australia of the British Council, Alliance Francaise, Goethe-Institut and Istituto Italiano di Cultura (as currently provided for in paragraph 406.221(b) of Schedule 2 to the Principal Regulations). These applicants are eligible to apply for a Subclass 403 visa in the Foreign Government Agency stream from 24 November 2012.

The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 406 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 406 visa criteria.

The secondary criteria for the new Subclass 403 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 406 visa holder in Australia on or after 24 November 2012.

#### Item [217] Schedule 2, Part 411

This item omits Part 411 of Schedule 2 to the Principal Regulations.

Part 411 provides the criteria for the Subclass 411 (Exchange) visa. The amendment repeals the Subclass 411 visa, which is replaced by the new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Exchange stream. The Subclass 401 visa is inserted by item [215] of this Schedule.

Applicants who previously may have applied for a Subclass 411 visa are required to apply for a Subclass 401 visa in the Exchange stream. The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 411 visa made before 24 November 2012 continue to be decided in accordance with the current Subclass 411 visa criteria.

The secondary criteria for the new Subclass 401 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 411 visa holder in Australia on or after 24 November 2012.

#### Item [218] Schedule 2, Part 415

This item omits Part 415 of Schedule 2 to the Principal Regulations.

Part 415 provides the criteria for the Subclass 415 (Foreign Government Agency) visa. The amendment repeals the Subclass 415 visa, which is replaced by the new Subclass 403 (Temporary Work (International Relations)) visa in the Foreign Government Agency stream. The Subclass 403 visa is inserted by item [215] of this Schedule.

Applicants who previously may have applied for a Subclass 415 visa are required to apply for a Subclass 403 visa in the Foreign Government Agency stream. The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 415 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 415 visa criteria.

The secondary criteria for the new Subclass 403 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 415 visa holder in Australia on or after 24 November 2012.

#### Item [219] Schedule 2, Part 419

This item omits Part 419 of Schedule 2 to the Principal Regulations.

Part 419 provides the criteria for the Subclass 419 (Visiting Academic) visa. The amendment repeals the Subclass 419 visa, which is replaced by the new Subclass 402 (Training and Research) visa in the Research stream. The Subclass 402 visa is inserted by item [215] of this Schedule.

Applicants who previously may have applied for a Subclass 419 visa are required from 24 November 2012 to apply for a Subclass 402 visa in the Research stream. The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 419 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 419 visa criteria.

The secondary criteria for the new Subclass 402 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 419 visa holder in Australia on or after 24 November 2012.

#### Item [220] Schedule 2, Part 420

This item substitutes Part 420 of Schedule 2 to the Principal Regulations.

Part 420 provides the criteria for the Subclass 420 (Entertainment) visa. The visa is renamed as the Subclass 420 (Temporary Work (Entertainment)) visa. The visa is restructured for consistency with the new temporary work visas inserted by this Schedule, including clarifying that all criteria must be satisfied at the time a decision is made on the visa application.

The criteria for the Subclass 420 visa are also harmonised with the other temporary work visas, which includes standard wording for criteria relating to: the visas an applicant must not hold at the time of application, nominations, health insurance, adequate means of support, public interest criteria and special return criteria, with minor adjustments to reflect the specific eligibility requirements for each visa.

An additional change to the policy settings for this visa is that an applicant who currently may apply for a Subclass 423 (Media and Film Staff) visa on the basis of a nomination of an activity relating to the making of a documentary program or commercial for use outside Australia, is required from 24 November 2012 to apply for a Subclass 420 visa.

The Subclass 423 visa is repealed by item [222] of this Schedule. The change is supported by new subregulation 2.72D(10) relating to documentary programs or commercials for use outside Australia, which is inserted in regulation 2.72D (the nomination criteria relating to a Subclass 420 visa) by item [89] of this Schedule.

As a result of the repeal of the Subclass 423 (Media and Film Staff) visa, new Division 420.3 in this item allows an applicant to meet the secondary criteria if they are the member of the family unit of a person who holds a Subclass 423 visa. This ensures there is a visa pathway for subsequent entrants who wish to join an existing Subclass 423 visa holder in Australia.

All other criteria in new Part 420 reflect the current eligibility criteria for the Subclass 420 visa.

#### Item [221] Schedule 2, Part 421

This item omits Part 421 of Schedule 2 to the Principal Regulations.

Part 421 provides the criteria for the Subclass 421 (Sport) visa. The amendment repeals the Subclass 421 visa, which is replaced by the new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Sport stream. The Subclass 401 visa is inserted by item [215] of the Schedule.

Applicants who previously may have applied for a Subclass 421 visa are required to apply for a Subclass 401 visa in the Sport stream. The only exception is sports trainees. These applicants may currently apply for either a Subclass 421 visa or a Subclass 442 (Occupational Trainee) visa. As there is no need to provide two separate pathways for the same cohort of applicant, from 24 November 2012, sports trainees are to apply for a Subclass 402 (Training and Research) visa in the Occupational Trainee stream, which is inserted by item [215] of this Schedule.

The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 421 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 421 visa criteria.

The secondary criteria for the new Subclass 401 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 421 visa holder in Australia on or after 24 November 2012.

#### Item [222] Schedule 2, Parts 423 to 428

This item omits Parts 423, 426, 427, and 428 of Schedule 2 to the Principal Regulations.

Part 423 provides the criteria for the Subclass 423 (Media and Film Staff) visa. The Subclass 423 visa currently provides for journalists, correspondents or reporters of foreign news organisations and applicants making a documentary program or commercial that is exclusively for overseas use.

These applicants may instead apply for the following visas from 24 November 2012:

- journalists, correspondents or reporters of foreign news organisations may apply for a Subclass 457 (Temporary Work (Skilled)) visa (as renamed by this Schedule); and
- applicants making a documentary program or commercial that is exclusively for overseas use may apply for a Subclass 420 (Temporary Work (Entertainment)) visa (as renamed by this Schedule).

No change is required to the Subclass 457 visa criteria, or associated nomination criteria, to accommodate journalists, correspondents or reporters. In the case of applicants making a documentary program or commercial, the nomination criteria relating to Subclass 420 visas are amended by item [89] of this Schedule to ensure that this cohort can be identified in a nomination for the purposes of the grant of a Subclass 420 visa.

The secondary criteria for the amended Subclass 420 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 423 visa holder in Australia on or after 24 November 2012.

Part 426 provides the criteria for the Subclass 426 Domestic Worker (Temporary) – Diplomatic or Consular visa. The amendment repeals the Subclass 426 visa, which is replaced by the new Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream. The Subclass 403 visa is inserted by item [215] of this Schedule.

Applicants who previously may have applied for a Subclass 426 visa are required to apply for a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream.

Part 427 provides the criteria for the Subclass 427 (Domestic Worker (Temporary) – Executive) visa. The amendment repeals the Subclass 427 visa. The very small cohort

of applicants who currently use this visa have the option of applying for a Subclass 457 (Temporary Work (Skilled)) visa under the labour agreement provisions.

Part 428 provides the criteria for the Subclass 428 (Religious Worker) visa. The amendment repeals the Subclass 428 visa, which is replaced by the new Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream. The Subclass 401 visa is inserted by item [215] of the Schedule.

Applicants who previously may have applied for a Subclass 428 visa are required to apply for a Subclass 401 visa in the Religious Worker stream. The secondary criteria for the new Subclass 401 visa establish a new visa pathway for subsequent entrants who on or after 24 November 2012 wish to join an existing primary Subclass 428 visa holder in Australia.

The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 423, Subclass 426, Subclass 427 or Subclass 428 visa made before 24 November 2012 continues to be decided in accordance with the current visa criteria.

#### Item [223] Schedule 2, Part 442

This item omits Part 442 of Schedule 2 to the Principal Regulations.

Part 442 provides the criteria for the Subclass 442 (Occupational Trainee) visa. The amendment repeals the Subclass 442 visa, which is replaced by the new Subclass 402 (Training and Research) visa in the Occupational Trainee stream. The Subclass 402 visa is inserted by item [215] of the Schedule.

Applicants who previously may have applied for a Subclass 442 visa are required to apply for a Subclass 402 visa in the Occupational Trainee stream. The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 442 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 442 visa criteria.

The secondary criteria for the new Subclass 402 visa establish a new visa pathway for subsequent entrants who wish to join an existing primary Subclass 442 visa holder in Australia on or after 24 November 2012.

#### Item [224] Schedule 2, Part 457, title

This item substitutes a new title for Part 457 of Schedule 2 to the Principal Regulations.

The current title is 'Subclass 457 Business (Long Stay)'. The new title is 'Subclass 457 Temporary Work (Skilled)'. The new title aligns with other new visas inserted or amended by this Regulation, and better reflects the purpose of the visa which is to provide for the temporary entry of skilled workers. The visa is not intended to cater for temporary business visitors who have more appropriate visa options under the visitor program.

Item [225] Schedule 2, subclause 457.111(2), note

This item substitutes a new note following subclause 457.111(2) of Part 457 of Schedule 2 to the Principal Regulations.

The note omits the reference to ‘IASS agreement’. The amendment is consequential to the omission of the definition of ‘IASS agreement’ in regulation 1.03 by item [4] above and the removal of criteria for the grant of a Subclass 457 visa on the basis of an IASS agreement in item [228] of this Schedule.

Item [226] Schedule 2, subclause 457.223(1)

This item amends subclause 457.223(1) of Part 457 of Schedule 2 to the Principal Regulations to omit references to subclauses 457.223(7A), (9) and (10).

The amendment is consequential to the omission of subclauses 457.223(7A), (9) and (10) by items [227] and [228] of this Schedule.

Item [227] Schedule 2, subclause 457.223(7A)

This item omits subclause 457.223(7A) of Part 457 of Schedule 2 to the Principal Regulations.

The criteria in current subclause 457.223(7A) are intended to allow certain holders of Subclass 457 visas (“Independent Executives”) who qualified for the visa on the basis of criteria which were repealed on 14 September 2009 to be granted a further Subclass 457 visa for a period of two years. There are no remaining Subclass 457 holders who would satisfy the criteria in this subclause, and the provision is no longer required.

The purpose of the amendment is to repeal the redundant subclause.

Item [228] Schedule 2, subclauses 457.223 (9) and (10)

This item omits subclauses 457.223(9) and (10) of Part 457 of Schedule 2 to the Principal Regulations.

Persons accorded certain privileges and immunities, who satisfy the requirements of subclause 457.223(9) will be eligible for the new Subclass 403 (International Relations) visa in the Privileges and Immunities stream. Accordingly, subclause 457.223(9) is no longer required.

Current subclause 457.223(10) relates to applicants sponsored by a party to an IASS agreement. There are no longer any active IASS agreements and this program has been closed. Accordingly, subclause 457.223(10) is no longer required.

The purpose of this amendment is to repeal redundant provisions.

Item [229] Schedule 2, clause 457.223B

This item amends clause 457.223B of Part 457 of Schedule 2 to the Principal Regulations to omit the reference to subclause 457.223(9).

The amendment is consequential to the omission of subclause 457.223(9), by item [228] of this Schedule.

Item [230] Schedule 2, clause 457.224

This item substitutes clause 457.224 of Part 457 of Schedule 2 to the Principal Regulations.

Clause 457.224 prescribes the public interest criteria that an applicant seeking to satisfy the primary criteria for a Subclass 457 visa must satisfy. Consequential to the omission of subclauses 457.223(7A) and (9), by items [227] and [228] of this Schedule, this clause can be simplified.

The amendment does not alter the criteria applicable to Subclass 457 visa applicants.

Item [231] Schedule 2, clause 457.227

This item omits clause 457.227 of Part 457 of Schedule 2 to the Principal Regulations.

Subclause 457.227 applies only to applicants who meet the requirements of 457.223(7A), which is omitted by item [227] of this Regulation.

The purpose of the amendment is to repeal the redundant subclause.

Item [232] Schedule 2, subclause 457.324(1)

This item amends subclause 457.324(1) of Part 457 of Schedule 2 to the Principal Regulations by omitting the words “in accordance with approved form 1196N or 1196 (Internet)”.

Subclause 457.324(1) currently requires that a secondary applicant is included in any nomination that is required in respect of the primary applicant in accordance with approved form 1196N or 1196 (Internet). The amendment removes the current reference to the application forms in which the nomination is made. It does not affect the meaning or effect of this provision.

The amendment is intended to simplify the provision and allow for business process to change in the future without requiring supporting amendments to the Principal Regulations.

Item [233] Schedule 2, subclause 457.324(2)

This item amends subclause 457.324(2) of Part 457 of Schedule 2 to the Principal Regulations.

Subclause 457.324(2) prescribes the criteria for applicants who are not included in the nomination in respect of the primary applicant using the approved forms. The amendment removes a reference to application forms, consequential to the amendment made by item [232] of this Schedule.



Items [234] – [235] Schedule 2, clause 457.324D; and subparagraph 457.325(b)(ii)

These items amend clause 457.324D and subparagraph 457.325(b)(ii) of Part 457 of Schedule 2 to the Principal Regulations by clarifying that the reference to subclause 457.223(9) is a reference to that subclause as in force prior to 24 November 2012.

These are technical amendments, consequential to the omission of subclause 457.223(9) by item [228] of this Schedule. Despite that omission, which means that primary applicants can no longer apply under the ‘privileges and immunities’ stream in Subclass 457, it is necessary to retain a reference to the omitted provision in subclause 457.324D so that family members seeking to join the visa holder in Australia continue to be exempt from the requirement to have health insurance. It is necessary to retain a reference to the omitted provision in subparagraph 457.325(b)(ii) so that family members seeking to join the visa holder in Australia continue to be subject to public interest criterion 4019.

As these provisions reference a provision which no longer appears in the Principal Regulations, the additional words “as in force immediately before 24 November 2012” provides greater clarity.

Item [236] Schedule 2, paragraph 457.325(c)

This item omits paragraph 457.325(c) of Part 457 of Schedule 2 to the Principal Regulations.

Paragraph 457.325(c) currently prescribes that an applicant who is a member of the family unit of an applicant who seeks to satisfy clause 457.223(7A) must satisfy public interest criterion 4005. The amendment is consequential to the omission of subclause 457.223(7A) by item [227] of this Schedule.

Item [237] Schedule 2, paragraph 457.325(d)

This item amends paragraph 457.325(d) of Part 457 of Schedule 2 to the Principal Regulations by clarifying that the reference to subclause 457.223(9) is a reference to that clause as in force prior to 24 November 2012.

This is a technical amendment which is consequential to the omission of subclause 457.223(9) by item [228] of this Schedule. Despite that omission, which means that primary applicants can no longer apply under the ‘privileges and immunities’ stream in Subclass 457, it is necessary to retain a reference to the omitted provision in paragraph 457.325(d) so that family members seeking to join the visa holder in Australia continue to be exempt from public interest criterion 4006A.

As subparagraph 457.325(d) references a provision which no longer appears in the Principal Regulations, the insertion of the additional words “as in force immediately before 24 November 2012” provides greater clarity.

Item [238] Schedule 2, paragraph 457.511(c)

This item omits paragraph 457.511(c) of Part 457 of Schedule 2 to the Principal Regulations.

Paragraph 457.511(c) prescribes the visa in effect provisions in relation to the holder of a visa granted on the basis of satisfying the requirements in clause 457.223(7A).

The amendment is consequential to the omission of subclause 457.223(7A), which is effected by item [227] of this Schedule.

Item [239] Schedule 2, subparagraph 457.511(d)(i)

This item amends subparagraph 457.511(d)(i) of Schedule 2 to the Principal Regulations to omit the reference to paragraph 457.511(c).

The amendment is a technical amendment, consequential to item [227] of this Schedule.

Item [240] Schedule 2, subparagraph 457.511(d)(iii)

This item amends subparagraph 457.511(d)(iii) of Schedule 2 to the Principal Regulations to omit the reference to paragraph 457.511(c).

The amendment is a technical amendment, consequential to item [227] of this Schedule.

Item [241] Schedule 2, paragraph 457.611(1)(a)

This item amends paragraph 457.611(1)(a) of Schedule 2 to the Principal Regulations to omit the reference to subclause 457.223(9).

The amendment is a technical amendment which is consequential to the omission of subclause 457.223(9) by item [228] of this Schedule.

Item [242] Schedule 2, paragraph 457.611(1)(b)

This item amends paragraph 457.611(1)(b) of Part 457 of Schedule 2 to the Principal Regulations by clarifying that the reference to subclause 457.223(9) is a reference to that clause as in force prior to 24 November 2012.

This is a technical amendment which is consequential to the omission of subclause 457.223(9) by item [228] of this Schedule. Despite that omission, which means that primary applicants can no longer apply under the ‘privileges and immunities’ stream in Subclass 457, it is necessary to retain a reference to the omitted provision in paragraph 457.611(1)(b) so that family members seeking to join the visa holder in Australia continue to be exempt from the imposition of visa condition 8501.

As subparagraph 457.611(1)(b) references a provision which no longer appears in the Principal Regulations, the insertion of the additional words “as in force immediately before 24 November 2012” provides greater clarity.

Item [243] Schedule 2, subclause 457.611(2)

This item substitutes subclause 457.611(2) of Schedule 2 to the Principal Regulations.

Subclause 457.611(2) currently provides that unless the applicant met the requirements of subclause 457.223(7A), condition 8107 must be imposed.

The amendment to provide that condition 8107 applies to all Subclass 457 visa holders is consequential to the omission of subclause 457.223(7A) by item [227] of this Schedule.

Item [244] Schedule 2, clause 461.213

This item substitutes clause 461.213 of Part 461 of Schedule 2 to the Principal Regulations.

Part 461 prescribes the criteria for the grant of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa. Clause 461.213 prescribes that applicants seeking to satisfy the primary criteria, who were in Australia at the time of application, must not hold, or must not have held as their last substantive visa a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa.

This item amends clause 461.213 to also prohibit a Subclass 461 applicant from holding or having held as their last substantive visa a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker stream.

The purpose of the amendment is to extend the prohibition on Subclass 426 visa holders applying for a Subclass 461 visa while in Australia to the Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker stream, which replaces the Subclass 426 visa from 24 November 2012.

Item [245] Schedule 2, Part 470

This item omits Part 470 of Schedule 2 to the Principal Regulations.

Part 470 provides the criteria for the grant of a Subclass 470 (Professional Development) visa. The amendment repeals the Subclass 470 visa, which is replaced by the new Subclass 402 (Training and Research) visa in the Professional Development stream. The Subclass 402 visa is inserted by item [215] of the Schedule.

Applicants who previously may have applied for a Subclass 470 visa are required from 24 November 2012 to apply for a Subclass 402 visa in the Professional Development stream. The effect of the transitional provisions in Schedule 4 of this Regulation ensures that an application for a Subclass 470 visa made before 24 November 2012 continues to be decided in accordance with the current Subclass 470 visa criteria.

Item [246] Schedule 2, subparagraph 570.211(2)(a)(xvi)

This item substitutes subparagraph 570.211(2)(a)(xvi) and inserts new subparagraphs 570.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 570 of Schedule 2 to the Principal Regulations.

Paragraph 570.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 570 (Independent ELICOS Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 570.211(2)(a).

Item [247] Schedule 2, sub-subparagraph 570.227(c)(i)(O)

This item substitutes sub-subparagraph 570.227(c)(i)(O) and inserts new sub-subparagraphs 570.227(c)(i)(P), (Q), (R) and (S) in Part 570 of Schedule 2 to the Principal Regulations.

Clause 570.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 570 who held a temporary visa listed in subparagraph 570.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 570.227(c)(i).

Item [248] Schedule 2, subparagraph 570.312(2)(a)(xvi)

This item substitutes subparagraph 570.312(2)(a)(xvi) and inserts new subparagraphs 570.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 570 of Schedule 2 to the Principal Regulations.

Paragraph 570.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 570 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 570.312(2)(a).

Item [249] Schedule 2, subparagraph 571.211(2)(a)(xvi)

This item substitutes subparagraph 571.211(2)(a)(xvi) and inserts new subparagraphs 571.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 571 of Schedule 2 to the Principal Regulations.

Paragraph 571.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 571 (Schools Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 571.211(2)(a).

Item [250] Schedule 2, sub-subparagraph 571.227(c)(i)(O)

This item substitutes sub-subparagraph 571.227(c)(i)(O) and inserts new sub-subparagraphs 571.227(c)(i)(P), (Q), (R) and (S) in Part 571 of Schedule 2 to the Principal Regulations.

Clause 571.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 571 who held a temporary visa listed in subparagraph 571.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 571.227(c)(i).

Item [251] Schedule 2, subparagraph 571.312(2)(a)(xvi)

This item substitutes subparagraph 571.312(2)(a)(xvi) and inserts new subparagraphs 571.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 571 of Schedule 2 to the Principal Regulations.

Paragraph 571.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 571 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 571.312(2)(a).

Item [252] Schedule 2, subparagraph 572.211(2)(a)(xvi)

This item substitutes subparagraph 572.211(2)(a)(xvi) and inserts new subparagraphs 572.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 572 of Schedule 2 to the Principal Regulations.

Paragraph 572.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 572 (Vocational Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 572.211(2)(a).

Item [253] Schedule 2, sub-subparagraph 572.227(c)(i)(O)

This item substitutes sub-subparagraph 572.227(c)(i)(O) and inserts new sub-subparagraphs 572.227(c)(i)(P), (Q), (R) and (S) in Part 572 of Schedule 2 to the Principal Regulations.

Clause 572.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 572 who held a temporary visa listed in subparagraph 572.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 572.227(c)(i).

Item [254] Schedule 2, subparagraph 572.312(2)(a)(xvi)

This item substitutes subparagraph 572.312(2)(a)(xvi) and inserts new subparagraphs 572.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 572 of Schedule 2 to the Principal Regulations.

Paragraph 572.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 572 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 572.312(2)(a).

Item [255] Schedule 2, subparagraph 573.211(2)(a)(xiv)

This item substitutes subparagraph 573.211(2)(a)(xiv) and inserts new subparagraphs 573.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 573 of Schedule 2 to the Principal Regulations.

Paragraph 573.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 573 (Higher Education Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 573.211(2)(a).

Item [256] Schedule 2, sub-subparagraph 573.227(c)(i)(O)

This item substitutes sub-subparagraph 573.227(c)(i)(O) and inserts new sub-subparagraphs 573.227(c)(i)(P), (Q), (R) and (S) in Part 573 of Schedule 2 to the Principal Regulations.

Clause 573.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 573 who held a temporary visa listed in subparagraph 573.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 573.227(c)(i).

Item [257] Schedule 2, subparagraph 573.312(2)(a)(xvi)

This item substitutes subparagraph 573.312(2)(a)(xvi) and inserts new subparagraphs 573.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 573 of Schedule 2 to the Principal Regulations.

Paragraph 573.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 573 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 573.312(2)(a).

Item [258] Schedule 2, subparagraph 574.211(2)(a)(xvi)

This item substitutes subparagraph 574.211(2)(a)(xvi) and inserts new subparagraphs 574.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 574 of Schedule 2 to the Principal Regulations.

Paragraph 574.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 574 (Postgraduate Research Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 574.211(2)(a).

Item [259] Schedule 2, sub-subparagraph 574.227(c)(i)(O)

This item substitutes sub-subparagraph 574.227(c)(i)(O) and insert new sub-subparagraphs 574.227(c)(i)(P), (Q), (R) and (S) in Part 574 of Schedule 2 to the Principal Regulations.

Clause 574.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 574 who held a temporary visa listed in subparagraph 574.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 574.227(c)(i).

Item [260] Schedule 2, subparagraph 574.312(2)(a)(xvi)

This item substitutes subparagraph 574.312(2)(a)(xvi) and inserts new subparagraphs 574.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 574 of Schedule 2 to the Principal Regulations.

Paragraph 574.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 574 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 574.312(2)(a).

Item [261] Schedule 2, subparagraph 575.211(2)(a)(xvi)

This item substitutes subparagraph 575.211(2)(a)(xvi) and inserts new subparagraphs 575.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 575 of Schedule 2 to the Principal Regulations.

Paragraph 575.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 575 (Non-Award Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 575.211(2)(a).

Item [262] Schedule 2, sub-subparagraph 575.227(c)(i)(O)

This item substitutes sub-subparagraph 575.227(c)(i)(O) and inserts new sub-subparagraphs 575.227(c)(i)(P), (Q), (R) and (S) in Part 575 of Schedule 2 to the Principal Regulations.

Clause 575.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 575 who held a temporary visa listed in subparagraph 575.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 575.227(c)(i).

Item [263] Schedule 2, subparagraph 575.312(2)(a)(xvi)

This item substitutes subparagraph 575.312(2)(a)(xvi) and inserts new subparagraphs 575.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 575 of Schedule 2 to the Principal Regulations.



Paragraph 575.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 575 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 575.312(2)(a).

Item [264] Schedule 2, subparagraph 576.211(2)(a)(xvi)

This item substitutes subparagraph 576.211(2)(a)(xvi) and inserts new subparagraphs 576.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 576 of Schedule 2 to the Principal Regulations.

Paragraph 576.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 576 (AusAID or Defence Sector) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 576.211(2)(a).

Item [265] Schedule 2, subparagraph 576.312(2)(a)(xvi)

This item substitutes subparagraph 576.312(2)(a)(xvi) and inserts new subparagraphs 576.312(2)(a)(xvii), (xviii), (xix) and (xx) in Part 576 of Schedule 2 to the Principal Regulations.

Paragraph 576.312(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 576 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 576.312(2)(a).

Item [266] Schedule 2, subparagraph 580.211(2)(a)(xvi)

This item substitutes subparagraph 580.211(2)(a)(xvi) and inserts new subparagraphs 580.211(2)(a)(xvii), (xviii), (xix) and (xx) in Part 580 of Schedule 2 to the Principal Regulations.

Paragraph 580.211(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the primary criteria for a Subclass 580 (Student Guardian) visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment)

(Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 580.211(2)(a).

Item [267] Schedule 2, sub-subparagraph 580.227(c)(i)(O)

This item substitutes sub-subparagraph 580.227(c)(i)(O) and inserts new sub-subparagraphs 580.227(c)(i)(P), (Q), (R) and (S) in Part 580 of Schedule 2 to the Principal Regulations.

Clause 580.227 prescribes additional criteria to be satisfied where an application was made in Australia, by an applicant seeking to satisfy the primary criteria for a Subclass 580 who held a temporary visa listed in subparagraph 580.227(c)(i) at the time of application.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in subparagraph 580.227(c)(i).

Item [268] Schedule 2, subparagraph 580.311(2)(a)(xvi)

This item substitutes subparagraph 580.311(2)(a)(xvi) and inserts new subparagraphs 580.311(2)(a)(xvii), (xviii), (xix) and (xx) in Part 580 of Schedule 2 to the Principal Regulations.

Paragraph 580.311(2)(a) prescribes a range of temporary visas that an applicant seeking to satisfy the secondary criteria for a Subclass 580 visa may hold if the application is made in Australia.

The amendment inserts references to the new Temporary Work (Long Stay Activity) (Class GB); Training and Research (Class GC); Temporary Work (Entertainment) (Class GE); and Special Program (Temporary) (Class TE) visas in paragraph 580.312(2)(a).

Item [269] Schedule 2, paragraph 675.216(a)

This item substitutes paragraph 675.216(a) of Part 675 of Schedule 2 to the Principal Regulations.

Part 675 prescribes the criteria for the grant of a Subclass 675 (Medical Treatment) (Short Stay) visa. Paragraph 675.216(a) prescribes that applicants seeking to satisfy the primary criteria for the grant of a Subclass 675 visa, who were in Australia at the time of application must not hold, or must not have held as their last substantive visa a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa.

This item amends paragraph 675.216(a) to prohibit a Subclass 675 applicant from holding or having held as their last substantive visa a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker stream.

The purpose of the amendment is to extend the prohibition on Subclass 426 visa holders applying for a Subclass 675 visa while in Australia to the Subclass 403

(Temporary Work (International Relations)) visa in the Domestic Worker stream, which replaces the Subclass 426 visa from 24 November 2012.

Items [270] – [271] Schedule 2, paragraph 676.215(a); and paragraphs 685.216(1)(a) and (b)

These items substitute paragraphs 676.215(a) and paragraphs 685.216(1)(a) and (b) of Part 676 of Schedule 2 to the Principal Regulations.

Part 676 prescribes the criteria for the grant of a Subclass 676 (Tourist) visa. Paragraph 676.215(a) prescribes that applicants seeking to satisfy the primary criteria, who were in Australia at the time of application must not hold, or must not have held as their last substantive visa, a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa.

Part 685 prescribes the criteria for the grant of a Subclass 685 (Medical Treatment (Long Stay)) visa. Paragraphs 685.216(1)(a) and (b) prescribe that applicants seeking to satisfy the primary criteria, who were in Australia at the time of application, must not hold, or must not have held as their last substantive visa a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa.

These items amend paragraph 676.215(a) and paragraphs 685.216(1)(a) and (b) to also prohibit a Subclass 676 or Subclass 685 applicant from holding or having held as their last substantive visa a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker stream.

The purpose of the amendment is to extend the prohibition on Subclass 426 visa holders applying for a Subclass 676 or Subclass 685 visa while in Australia to the Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker stream, which replace the Subclass 426 visa from 24 November 2012.

Item [272] – Schedule 2, paragraph 773.213(3)(s)

This item substitutes paragraph 773.213(3)(s) and insert new paragraphs 773.213(3)(t), (u) and (v) in Part 773 of Schedule 2 to the Principal Regulations.

The effect of this amendment is to add the new Temporary Work (Long Stay Activity) (Class GB), Training and Research (Class GC), and Temporary Work (Entertainment) (Class GE) visas, which are inserted in Schedule 1 to the Principal Regulations by item [206] of this Schedule, 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 [273] – Schedule 2, paragraph 773.213(4)(b)

This item substitutes paragraph 773.213(4)(b) in Part 773 of Schedule 2 to the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendment is consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [274] – Schedule 4, Part 2, after item 4055AA

This item inserts a new item 4055AAA in Part 2 of Schedule 4 to the Principal Regulations.

Part 2 of Schedule 4 prescribes the conditions applicable to certain visa subclasses for the purposes of subclause 4013(2), which relates to risk factors associated with visa cancellation.

The effect of this item is to prescribe conditions 8102, 8103, 8501, 8531 and 8536 for the new Subclass 402 (Training and Research) visa for the purposes of public interest criterion 4013.

Items [275] – [276] Schedule 8, subclause 8107(3); and subclause 8107(3B)

These items amend subclause 8107(3) and subclause 8107(3B) of Schedule 8 to the Principal Regulations to replace the words “Subclass 457 (Business (Long Stay)) visa” with “Subclass 457 (Temporary Work (Skilled)) visa”.

The amendments are consequential to the renaming of the Subclass 457 visa by item [224] of this Schedule.

Item [277] – Schedule 8, subclause 8107(3B)

This item omits references to subclauses 457.223(9) and 457.223(10) in subclause 8107(3B) of Schedule 8 to the Principal Regulations.

The amendment is consequential to the repeal of subclauses 457.223(9) and 457.223(10) by item [228] of this Schedule.

Items [278] – [279] Schedule 8, subclause 8107(4); and paragraphs 8107(4)(a) and (b)

These items amend subclause 8107(4) of Schedule 8 to the Principal Regulations.

Paragraphs 8107(4)(a) and (b) list the eight temporary work visas which are subject to the conditions set out in paragraphs 8107(4)(c), (d) and (e).

New paragraphs 8107(4)(a), (b) and (ba) add references to the Subclass 401 (Temporary Work (Long Stay Activity)) visa, the Subclass 402 (Training and Research) visa and the Subclass 420 (Temporary Work (Entertainment)) visa.

Transitional provisions in Schedule 4 of this Regulation ensure that condition 8107 apply, as in force before 24 November 2012, to any of the following visas granted on the basis of applications made before that date:

- a Subclass 411 (Exchange);
- a Subclass 419 (Visiting Academic);
- a Subclass 421 (Sport);
- a Subclass 423 (Media and Film Staff);

- a Subclass 427 (Domestic Worker (Temporary) – Executive);
- a Subclass 428 (Religious Worker); or
- a Subclass 442 (Occupational Trainee).

**Schedule 2 – Amendments of Migration Regulations 1994 relating to fees (section 3)**

Item [1] After subregulation 2.61(6)

This item inserts new subregulations 2.61(7) and (8) in Division 2.14 of Part 2A of the Principal Regulations.

New subregulations 2.61(7) and (8) give the Minister the discretion to refund a sponsorship application fee in cases where a sponsorship application, which was made before 24 November 2012 but not decided before that day, has no utility because of the changes made by Schedule 1 to this Regulation.

New subregulation 2.61(7) provides that the Minister may refund an application fee if the application is for approval as a foreign government agency sponsor, and is not associated with an application for a Subclass 415 (Foreign Government Agency) visa. The Subclass 415 visa is repealed from 24 November 2012 by item [218] of Schedule 1 to this Regulation. Further, the Subclass 403 (Temporary Work (International Relations)) visa in the Foreign Government Agency stream, which replaces the Subclass 415 visa, does not require sponsorship. An approval as a foreign government agency sponsor will therefore have no ongoing relevance if no visa application associated with the application for approval of the sponsorship has been lodged before 24 November 2012.

New subregulation 2.61(8) provides that the Minister may refund an application fee if the application is for approval as a domestic worker sponsor, and is not associated with an application for a Subclass 427 (Domestic Worker (Temporary) — Executive) visa. The Subclass 427 (Domestic Worker (Temporary) — Executive) visa is repealed from 24 November 2012 by item [222] of Schedule 1 to this Regulation. An application for approval as a domestic worker sponsor will therefore have no ongoing relevance if no visa application associated with the application for approval of the sponsorship has been lodged before 24 November 2012.

Item [2] After subregulation 2.73A(6)

This item inserts new subregulation 2.73A(7) in Division 2.17 of Part 2A of the Principal Regulations.

New subregulation 2.73A(7) provides that the Minister may refund a nomination fee if the nomination was lodged before 24 November 2012 but not approved before that day; and the nomination identifies a proposed applicant for a Subclass 411 (Exchange) visa, a Subclass 419 (Visiting Academic) visa, a Subclass 427 (Domestic Worker (Temporary) – Executive) visa, a Subclass 428 (Religious Worker) visa, or a Subclass 442 Occupational Trainee visa; and the proposed applicant did not apply for the relevant visa before 24 November 2012.

Consequential to the repeal of these temporary work visas by Schedule 1 to this Regulation, the purpose of this amendment is to provide the Minister with discretion to refund a nomination fee for a nomination that could not then be used by an applicant to apply for a visa.

Items [3] – [4] After subregulation 2.73B(7); and After subregulation 2.73C(6)

These items insert new subregulations 2.73B(8) and 2.73C(7) in Division 2.17 of Part 2A of the Principal Regulations.

New subregulation 2.73B(8) provides that the Minister may refund a nomination fee if the nomination was lodged before 24 November 2012 but not approved before that day; and the nomination identifies a proposed applicant for a Subclass 423 (Media and Film Staff) visa; and the proposed applicant did not apply for the visa before 24 November 2012.

New subregulation 2.73C(7) provides that the Minister may refund a nomination fee if the nomination was lodged before 24 November 2012 but not approved before that day; and the nomination identifies a proposed applicant for a Subclass 421 (Sport) visa; and the proposed applicant did not apply for the visa before 24 November 2012.

Consequential to the repeal of the Subclass 423 and Sub class 421 visa by Schedule 1 to this Regulation, the purpose of these amendments is to provide the Minister with discretion to refund a nomination fee for a nomination that could not then be used by an applicant to apply for a visa.

Item [5] Schedule 2, clauses 457.225 to 457.226A

This item substitutes new clause 457.225 for clauses 457.225, 457.226 and 457.226A of Part 457 of Schedule 2 to the Principal Regulations.

Clauses 457.225, 457.226 and 457.226A currently prescribe for the special return criterion and particular criterion that for former AusAID and fully-funded students, for applicants seeking to satisfy the primary criteria.

New clause 457.225 requires that all applicants seeking to satisfy the primary criteria must satisfy special return criteria set out at clauses 5001, 5002, and 5010 in Schedule 5 to the Principal Regulations. The reference to clause 5010 is a policy change. The clause sets out additional criteria which are applicable to applicants who hold or held AusAID student visas, or who hold or held other specified student visas in circumstances where the visa holder was financially supported by the government of a foreign country.

As clause 5010 encapsulates the criteria currently set out at clauses 457.226 and 457.226A, these provisions are no longer required.

The purpose of this amendment is to align the special return criterion for the Subclass 457 visa with other temporary work visas and remove provisions made redundant by that alignment.

Item [6] Schedule 2, clause 457.322

This item omits clause 457.322 of Part 457 of Schedule 2 to the Principal Regulations.

Clause 457.322 provides that where an application for a person seeking to satisfy the secondary criteria is made separately from the application of the primary applicant, the primary applicant must be in Australia or expected soon to be in Australia.

To align the Subclass 457 criteria with those for the temporary work visas inserted or amended by Schedule 1 to this Regulation, clause 457.322 is being omitted because it is no longer considered necessary to assess this risk as a criterion for the grant of a visa. In the small number of cases where such a risk might exist, it can be adequately managed via the imposition of condition 8502 in Schedule 8 to the Principal Regulations. That condition provides that the holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa.

Item [7] Schedule 2, clauses 457.326 and 457.327

This item substitutes new clause 457.326 for clauses 457.326 and 457.327 of Part 457 of Schedule 2 to the Principal Regulations.

New clause 457.326 mirrors the change made by item [5] of this Schedule in relation to applicants seeking to satisfy the secondary criteria.

New clause 457.326 requires that all applicants seeking to satisfy the secondary criteria must satisfy special return criteria set out at clauses 5001, 5002, and 5010 in Schedule 5 to the Principal Regulations.

**Schedule 3 – Amendments of *Migration Regulations 1994* relating to certain visas (section 3)**

Item [1] Subparagraph 1.08(c)(i)

This item substitutes subparagraph 1.08(c)(i) in Division 1.2 of Part 1 to the Principal Regulations.

Regulation 1.08 provides that certain visa holders may be able to obtain a waiver of the ‘no work’ condition 8101 if they can demonstrate that they have a compelling need to work. Sub-subparagraph 1.08(c)(i)(C) refers to an applicant for a Medical Practitioner (Temporary)(Class UE) visa which was closed to primary applicants on 1 July 2010.

New subparagraph 1.08(c)(i) omits the reference to the Medical Practitioner (Temporary)(Class UE) visa. The amendment is consequential to amendments at items [4] and [6] of this Schedule which repeals item 1214AA (Medical Practitioner (Temporary)(Class UE)) of Part 2 of Schedule 1 to the Principal Regulations, and the associated Subclass 422.

Transitional arrangements for this Schedule, set out in Schedule 4 to this Regulation, provide that the amendments apply in relation to an application for a visa or approval as a sponsor made on or after 24 November 2012, but do not apply in relation to a person seeking to satisfy the secondary criteria. The effect of these arrangements is that a person seeking to join a Subclass 422 visa holder in Australia may still apply

for this visa subclass after 24 November 2012, and regulation 1.08 applies to them as it was in force before 24 November 2012.

Item [2] Regulation 1.20AA

This item omits Regulation 1.20AA in Division 1.4 of Part 1 to the Principal Regulations.

Regulation 1.20AA provides for the approval of a sponsor and applies only to a Subclass 422 (Medical Practitioner) visa. The omission is consequential to amendments made by Item [5] of this Schedule, to repeal the Subclass 422.

Transitional arrangements for this Schedule provide that the amendments apply in relation to an approval as a sponsor made on or after 24 November 2012, but do not apply in relation to a person seeking to satisfy the secondary criteria. The effect of these arrangements is that a person seeking to join a Subclass 422 visa holder in Australia may still apply for this visa subclass after 24 November 2012, and regulation 1.20AA applies to them as was in force before 24 November 2012.

Item [3] Paragraph 2.12F(2B)(c)

This item omits paragraph 2.12F(2B)(c) in Division 2.2A of Part 1 to the Principal Regulations.

Regulation 2.12F provides the circumstances in which a refund of a first instalment of a visa application charge may be given. Paragraph 2.12F(2B)(c) refers to 1214AA Medical Practitioner (Temporary)(Class UE) visa which was closed to primary applicants on 1 July 2010 and is repealed from the Regulation by Item [4] of this Schedule.

Transitional arrangements for this Schedule, provide that the amendments apply in relation to an application for a visa made on or after 24 November 2012, but do not apply in relation to a person seeking to satisfy the secondary criteria. The effect of these arrangements is that a person seeking to join a Subclass 422 visa holder in Australia may still apply for this visa subclass after 24 November 2012, and regulation 2.12F would apply to them as it was in force before 24 November 2012.

Item [4] Schedule 1, item 1214AA

This item omits item 1214AA in Part 2 of Schedule 1 to the Principal Regulations.

Item 1214AA prescribes the requirements to make a valid application for a Medical Practitioner (Temporary) (Class UE) visa. Paragraph 1214AA(3)(d) provides that applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 July 2010. The visa has remained open to secondary applicants to allow family members to join Subclass 422 visa holders in Australia.

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

Transitional arrangements for this Schedule, set out in Schedule 4 to this Regulation, provide that the amendments apply in relation to an application for a visa made on or



after 24 November 2012, but do not apply in relation to a person seeking to satisfy the secondary criteria. The effect of these arrangements is that a person seeking to join a Subclass 422 visa holder in Australia may still apply for this visa subclass after 24 November 2012, and item 1214AA would apply to them as it was in force before 24 November 2012.

Item [5] Schedule 1, subparagraph 1223A(2)(a)(vi)

This item omits subparagraph 1223A(2)(a)(vi) from Schedule 1 to the Principal Regulations.

Item 1223A prescribes the requirements to make a valid visa application for a Temporary Business Entry (Class UC) visa. Subparagraph 1223A(2)(a)(vi) provides that the visa application charge is nil for secondary applicants in cases where the relevant primary applicant applied under the 'privileges and immunities' stream referred to in subparagraph 1223A(2)(a)(v) of Schedule 1. As the 'privileges and immunities' stream is removed from Subclass 457 by item [228] of Schedule 1 to this Regulation, this provision is no longer required.

However, there may be continue to be applications after 24 November 2012 by family members of persons who already hold Subclass 457 visas on the basis of the 'privileges and immunities' stream. The transitional arrangements provide that subparagraph 1223A(2)(a)(vi) continues to apply in those cases.

Item [6] Part 422

This item omits Part 422 of Schedule 2 to the Principal Regulations.

Part 422 prescribes the criteria for the grant of a Subclass 422 (Medical Practitioner) visa. Applications by a person seeking to satisfy the primary criteria for this visa must have been made before 1 July 2010.

This repeal of Subclass 422 is consequential to the repeal of the related Schedule 1 provisions in item [4] of this Schedule.

Transitional arrangements for this Schedule provide that the amendments apply in relation to an application for a visa made on or after 24 November 2012, but do not apply in relation to a person seeking to satisfy the secondary criteria. The effect of these arrangements is that a person seeking to join a Subclass 422 visa holder in Australia may still apply for this visa subclass after 24 November 2012, and Part 422 will apply to them as it was in force before 24 November 2012.

**Schedule 4 - Amendment of *Migration Regulations 1994* relating to transitional matters (section 3)**

Item [1] Schedule 13, after Part 5

This item inserts a new Part 6 (Amendments made by *Migration Legislation Amendment Regulation 2012 (No. 4)*) in Schedule 13 to the Principal Regulations.

Schedule 13 sets out the transitional arrangements which apply to amendments to the Principal Regulations. New Part 6 sets out the transitional arrangements which apply

to amendments to the Principal Regulations made by each Schedule of this Regulation.

*Item 601 – Operation of Schedule 1*

New subitem 601(1) provides that the amendments made by Schedule 1 to this Regulation apply in relation to an application made on or after 24 November 2012 for: a visa; or approval as a sponsor; or approval of a nomination; or the variation of the terms of an approval of a sponsorship.

The effect of this subitem 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 24 November 2012 continue to apply to applications made before that date.

However, new subitem 601(2) provides that the amendments do not apply to applications taken to have been made from 24 November 2012 under regulation 2.08. Regulation 2.08 provides that a child born to a visa applicant is taken to have applied for a visa of the same class as the parent, and the application is taken to have been made at the time of the child's birth. The amendment avoids the possibility that regulation 2.08 cannot operate according to its terms because the visa class applied for by the parent was repealed on 24 November 2012.

*Item 602 – Operation of Schedule 2*

New item 602 provides that the amendments made by Schedule 2 of this Regulation apply in relation to an application for a visa; or approval as a sponsor; or approval of a nomination that was made before 24 November 2012, but not finally determined at that date.

The amendments made by Schedule 2 also apply to an application made or after 24 November 2012.

*Item 603 – Operation of Schedule 3*

New subitem 603(1) provides that the amendments made by Schedule 3 of this Regulation apply in relation to applications made on or after 24 November 2012.

However, new subitem 603(2) provides that the amendments made by Schedule 3 do not apply in relation to a visa application made on or after 24 November 2012 by a person seeking to satisfy the secondary criteria for the grant of the visa.

The effect of this subitem is that a person seeking to satisfy the secondary criteria will be able to apply for the Subclass 422 visa after 24 November 2012, despite the repeal of the subclass on that date. The subitem preserves the capacity of family members to join the primary visa holders in Australia.

New subitem 603(3) provides that the amendments made by Schedule 3 do not apply in relation to an application made on or after 24 November 2012 for approval as a sponsor made in relation to an application for a visa made by a person seeking to satisfy the secondary criteria for the grant of the visa. This amendment ensures that

sponsorship provisions continue to operate for the visa applicants covered by subitem 603(2).

#### **Schedule 5 – Amendments of Migration Agents Regulations 1998 (section 4)**

##### **Item [1] Regulation 3E**

This item substitutes regulation 3E in Division 2.2 of Part 2 of the *Migration Agents Regulations 1998* (“the Migration Agents Regulations”).

Regulation 3E provides definitions of the terms “applicant” and “professional development sponsor” for the purposes of Division 2.2 of the Migration Agents Regulations.

New regulation 3E provides an amended definition of “*applicant*”, to mean a person who genuinely seeks to satisfy, or intends to seek to satisfy, the criteria for the grant of a subclass 470 (Professional Development) visa, or the criteria for the grant of a Subclass 402 (Training and Research) visa in the Professional Development stream.

New regulation 3E also provides an amended definition of “*professional development sponsor*”, to mean an organisation that is sponsoring, or intends to sponsor, an applicant in relation to his or her application for a subclass 470 (Professional Development) visa, or the criterion for the grant of Subclass 402 (Training and Research) visa in the professional development stream.

The changes to the definitions in regulation 3E are consequential to the insertion of the new Subclass 402 (Training and Research) visa in the Principal Regulations by Schedule 1 to this Regulation. The new Subclass 402 visa in the Professional Development stream replaces the current Subclass 470 visa.

##### **Items [2] – [3] Subregulation 3F(1); and Subregulation 3G(1)**

These items substitute subregulations 3F(1) and 3G(1) Division 2.2 of Part 2 of the Migration Regulations.

Subregulation 3F(1), in conjunction with subregulation 3F(2), currently provides that assistance given by a professional development sponsor to an applicant in relation to a Subclass 470 (Professional Development) visa constitutes “relevant circumstances” under which the assistance does not amount to giving “immigration assistance” of a kind mentioned in subsection 276(1) or (2) of the Act.

Subregulation 3G(1), in conjunction with subregulation 3G(2), currently provides that representations made by a professional development sponsor on behalf of an applicant in relation to a Subclass 470 (Professional Development) visa constitutes “relevant circumstances” under which the representations do not amount to making “immigration representations” of a kind mentioned in subsection 282(4) of the Act.

New subregulations 3F(1) and 3G(2) include reference to the new Subclass 402 (Training and Research) visa, as well as the Subclass 470 visa. These amendments are consequential to the replacement of the Subclass 470 visa by the new Subclass 402 visa in the Professional Development stream.

Item [4] After Part 4

This item inserts a new Part 5 in the Migration Agents Regulations. New Part 5 sets out the transitional provisions for amendments made to the Migration Agents Regulations.

Division 1 of new Part 5 provides transitional provisions for the amendments made to the Migration Agents Regulations by this Regulation,

New item 12 of Division 1 of Part 5 provides that the amendments made by Schedule 5 to this Regulation apply in relation to an application for a visa made on and after 24 November 2012.