



Commonwealth of Australia

Migration Regulations 1994

EVIDENTIARY REQUIREMENTS

(Paragraph 1.24(b))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under paragraph 1.24(b) of the *Migration Regulations 1994* ('the Regulations'):

1. SPECIFY for the purpose of paragraph 1.24(b) the types of evidence as acceptable evidence at Schedule 1.
2. SPECIFY that a minimum of two items of evidence from the list in Schedule 1 and no more than one of each type of evidence may be presented for the purposes of paragraph 1.24(b).

This instrument, IMMI 12/116, commences on 24 November 2012, immediately after the commencement of *Migration Legislation Amendment Regulation 2012 (No.5)*.

Dated 22 November 2012

Chris Bowen

Minister for Immigration and Citizenship

[NOTE 1: Regulation 1.24 of the Regulations provides that the evidence mentioned in paragraph 1.23(9)(c) is (a) a statutory declaration under regulation 1.25 which deals with statutory declarations by or on behalf of alleged victims; and (b) each type of evidence specified by the Minister, by instrument in writing for this paragraph.

NOTE 2: Part 1 Section 3 (Interpretation) of the *Health Insurance Act 1973* provides that a registered nurse means (a) a person registered under a law of a State or Territory (other than the State of South Australia) as a general nurse; or (b) a person registered under a law of the State of South Australia as a nurse.

NOTE 3: Part III Division 1 11b (*Definition of family consultant*) of the *Family Law Act 1975* provides that a *family consultant* is a person who is appointed as a family consultant under section 38N, appointed as a family consultant in relation to the Federal Magistrates Court under the *Federal Magistrates Act 1999*, appointed as a family consultant under the regulations or appointed under a law of a State as a family consultant in relation to a Family Court of that State. It is noted that the Chief Executive Officers of the Family Court and the Federal Magistrates Court have all of the functions and powers of family consultants, and may direct consultants in the performance of their functions.]

Schedule 1

Type of Evidence	includes the following detail
<p>Medical report, hospital report, discharge summary or statutory declaration that is made by either a person who is:</p> <ul style="list-style-type: none"> • registered as a medical practitioner and is performing the duties of a medical practitioner, or • registered as a nurse within the meaning of section 3 of the <i>Health Insurance Act 1973</i> and is performing the duties of a registered nurse. 	<ul style="list-style-type: none"> • Identifies the alleged victim, and • Details the physical injuries or treatment for mental health that is consistent with the claimed family violence.
<p>Either a report, record of assault, witness statement or statutory declaration that is made by:</p> <ul style="list-style-type: none"> • a police officer of a State or Territory • a police officer of the Australian Federal Police <p>OR</p> <p>A witness statement that is made by someone other than the alleged victim to a police officer during the course of a police investigation.</p>	<ul style="list-style-type: none"> • Identifies the alleged victim, and • Identifies the alleged perpetrator, and • Details an incident/s of family violence.
<p>Report or statutory declaration made by an officer of:</p> <ul style="list-style-type: none"> • a child welfare authority, or • a child protection authority of a State or Territory. 	<ul style="list-style-type: none"> • Details fears for the dependent child's safety due to family violence within the household, and • Identifies the alleged perpetrator.
<p>Letter or assessment report made by:</p> <ul style="list-style-type: none"> • a women's refuge, or • family/domestic violence crisis centre on the organisation's letterhead. 	<ul style="list-style-type: none"> • States that the alleged victim has made a claim of family violence, and • States whether the alleged victim was subject to family violence, and • Identifies the alleged perpetrator, and details any evidence used to form the opinion.
<p>Statutory declaration made by:</p> <ul style="list-style-type: none"> • a member of the Australian Association of Social Workers, or • a person who is eligible to be a member of that Association <p>who has provided counselling or assistance to the alleged victim while performing the duties of a social worker.</p>	<ul style="list-style-type: none"> • States in their opinion the alleged victim was subject to family violence, and • Details the reasons for the opinion, and • Identifies the alleged perpetrator.
<p>Statutory declaration made by a registered psychologist in a State or Territory who has treated the alleged victim while performing the duties of a psychologist.</p>	<ul style="list-style-type: none"> • States in their opinion the alleged victim was subject to family violence, and • Details the reasons for the opinion, and • Identifies the alleged perpetrator.
<p>Statutory declaration made by a family consultant appointed under the <i>Family Law Act 1975</i> or a family relationship counsellor who works at a Family Relationship Centre listed on the Australian Government Family Relationships website.</p>	<ul style="list-style-type: none"> • States that the alleged victim has been treated or counselled, by the family consultant or family relationship counsellor, and • States that in their opinion the alleged victim was subject to family violence, and • Details the reasons for the opinion, and • Identifies the alleged perpetrator.
<p>Statutory declaration or a letter on the school's letterhead made by a school counsellor or school principal in their professional capacity.</p>	<ul style="list-style-type: none"> • States that they have made, or been made aware of, observations that are consistent with the alleged victim's claims that they were subject to family violence, and • Identifies the alleged perpetrator, and • Provides details of those observations.