

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2013 No. 32**

Issued by the Minister for Immigration and Citizenship

*Migration Act 1958*

*Migration Amendment Regulation 2013 (No. 1)*

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 the visitor visa framework. The Regulation reduces the number of visitor visa subclasses by 50 per cent and streamlines the requirements for sponsorship, visa application and grant. The Regulation is not intended to exclude a person who was previously eligible for a visa from being granted a visa under the new structure. The Regulation is also not intended to include a person who was previously not eligible for a visa from being granted a visa under the new structure. The Regulation further implements the Government's temporary work visa reform introduced on 24 November 2012 which seeks to simplify and deregulate the temporary work visa framework. In particular, the Regulation amends the Principal Regulations to:

- streamline four visitor visas (Tourist, Sponsored Family, Business and Sponsored Business) into one simplified Visitor visa, new Subclass 600 (Visitor);
- streamline three Electronic Travel Authority (ETA) visas (covering tourists and business visitors) into one simplified ETA visa, new Subclass 601 (ETA);
- streamline two Medical Treatment visas (Short Stay and Long Stay) into one simplified Medical Treatment visa, new Subclass 602 (Medical Treatment);
- clarify that business visitors are intended to be precluded from working in Australia unless conducting a "business visitor activity", for instance, negotiating and entering into contracts. The purpose is to facilitate legitimate business activity while excluding visitors from entering the labour market or undertaking work which might otherwise be undertaken by an Australian citizen or permanent resident, or by the holder of a temporary work visa;
- introduce a new Temporary Work (Short Stay Activity) visa permitting entry to Australia to undertake highly specialised work (for instance, the installation of imported equipment) to conduct work in compelling circumstances relating to Australia's interests (for instance, in the event of a natural disaster such as a

flood or bushfire), or to attend an event upon invitation by the organisers such as at a conference or cultural event. The visa allows stays of up to three months;

- enable domestic workers of relevant executives to be granted a Temporary work (Long Stay Activity) visa. This ensures that these applicants continue to have access to a visa following the repeal of Subclass 427 (Domestic Worker (Temporary) – Executive) as part of the deregulation initiative;
- make amendments consequential to the temporary work visa reform introduced on 24 November 2012 and the government’s simplification and deregulation agenda; and
- correct minor typographical errors.

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 in relation to introducing a new Temporary Work (Short Stay Activity) visa. A RIS has been submitted to OBPR. 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. The consultation reference is 12253. A copy of the RIS is at [Attachment D](#). The Temporary Work (Short Stay Activity) visa is referred to at paragraphs 4.5.2 and 5.2.4 of the Attachment.

The OBPR advised that a RIS was not required for amendments made by the Regulation to enable domestic workers of relevant executives to be granted a Temporary Work (Long Stay Activity) visa. The amendments were assessed as having a minor impact on business or the not-for-profit sector and no further analysis is required. The consultation reference is 14506.

The OBPR advised that a RIS was not required for amendments made by the Regulation in relation to Visitor visas. The amendments were assessed as having a minor impact on business or the not-for-profit sector and no further analysis is required. The consultation reference is: 12254.

Approximately 600 external consultations were undertaken across Federal and State government agencies during the development of the new visitor visa framework. The consultation process involved the publication of two discussion papers: “*Simpler Visas: Creating a Simpler Framework for Temporary and Permanent Entry to Australia*” in 2010 and “*Simpler Visas: Making Visitor Visas Simple*” in 2011. Submissions were received from a wide range of stakeholders, including Commonwealth agencies, State and Territory governments, employer bodies, tourism bodies, unions and other charity organisations.

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

**ATTACHMENT A****AUTHORISING PROVISIONS**

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

In addition, the following provisions may apply:

- 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.

**ATTACHMENT B****Statement of Compatibility with Human Rights**

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

*Act 2011*

***Migration Amendment Regulation 2013 (No. 1)***

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.*

- **Schedule 1 – Amendments to the *Migration Regulations 1994* relating to Subclass 400 (Temporary Work (Short Stay Activity)) visa**

**Overview of the Legislative Instrument**

The Australian Government has 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 2012.

This is achieved by amending the *Migration Regulations 1994* (the Principal Regulations) to create a new temporary work visa subclass, the Subclass 400 (Temporary Work (Short Stay Activity)).

This follows the repeal of the Subclass 456 (Business (Short Stay)) visa and the transfer of the business visitor caseload from that visa to the new Visitor visas.

The amendments are primarily to Schedules 1 and 2 of the Principal Regulations. These amendments establish a new visa subclass, Subclass 400 (Temporary Work (Short Stay Activity)) visa, for visa applicants intending to undertake short-term, non-ongoing, highly specialised work in Australia or to come to Australia to participate in one or more specific events at the invitation of an organisation in Australia.

There are further changes to amend Part 2 of the Principal Regulations to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa in the list of visas that may be cancelled if the Minister is satisfied that the visa holder did not have at the time of grant, 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.

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

**Human rights implications**

As the amendments do not alter any substantive policy settings or client entitlements, human rights as articulated under the seven core international human rights treaties are not engaged.

## Conclusion

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

- **Schedules 2, 3, 4, 5 and 6 – Amendments to the *Migration Regulations 1994* relating to Visitor visas**

## Overview of the Legislative Instrument

The Australian Government has announced that as part of its visa simplification and deregulation agenda, the number of visa subclasses will be reduced by 50 per cent by the end of 2015. As part of this commitment the visitor visa framework is being simplified with a 50 per cent reduction in the number of visa subclasses.

This is achieved by:

- repealing the following 8 visitor visa subclasses;
  - Sponsored Family Visitor (Subclass 679) visa;
  - Business Short Stay (Subclass 456) visa;
  - Sponsored Business Visitor (Subclass 459) visa;
  - ETA (Visitor) (Subclass 976) visa;
  - ETA (Business Entrant – Short Validity) (Subclass 977) visa;
  - ETA (Business Entrant – Long Validity) (Subclass 956) visa;
  - Medical Treatment (Short Stay) (Subclass 675) visa; and
  - Medical Treatment (Long Stay) (Subclass 685) visa
- amending two visa subclasses:
  - Tourist (Subclass 676) visa;
  - eVisitor (Subclass 651) visa; and
- amending Schedules 1 and 2 to the Principal Regulations to create the following three new visitor visa subclasses:
  - Subclass 600 (Visitor) visa. The Subclass 600 (Visitor) visa will have four streams (Tourist, Sponsored Family, Business Visitor and Approved Destination Status Scheme) and consolidates the previous Schedule 1 and 2 criteria for temporary stay in Australia of tourists and business visitors;
  - Subclass 601 (Electronic Travel Authority) visa that consolidates the previous Schedule 1 and 2 criteria for temporary stay in Australia of eligible ETA passport holders for tourism or business visitor purposes; and
  - Subclass 602 (Medical Treatment) visa that consolidates the previous Schedule 1 and 2 criteria for medical treatment in Australia.



There are further minor and consequential changes to other parts of the Principal Regulations to support the introduction of the:

- Subclass 600 (Visitor) visa;
- Subclass 601 (Electronic Travel Authority) visa; and
- Subclass 602 (Medical Treatment) visa.

Minor consequential changes are also made to Subclass 651 (eVisitor) as part of harmonising the visitor visa requirements.

The above amendments are achieved without any substantial change to existing policy settings or any reduction in existing client entitlements.

### **Human rights implications**

As the amendments do not alter any substantive policy settings or client entitlements, human rights as articulated under the seven core international human rights treaties are not engaged.

### **Conclusion**

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

- **Schedule 7 – Amendments to the *Migration Regulations 1994* relating to ongoing visa arrangements for domestic workers of foreign executives**

### **Overview of the Legislative Instrument**

The Subclass 427 (Domestic Worker – Executive) visa was repealed on 24 November 2012 as part of the Government’s visa simplification and deregulation program. This visa allowed foreign executives who held a Subclass 457 (Business (Long Stay)) visa and the position of national managing director, deputy managing director or state manager of a foreign organisation in Australia, to sponsor up to three domestic workers to work in their private household.

The intention is to instead provide for the entry of these domestic workers by means of a specific stream in the Subclass 401 (Temporary Work (Long Stay Activity)) visa. The organisation that will employ the executive will be approved as a ‘long stay activity sponsor’ and therefore able to nominate a domestic worker under the new stream of the Subclass 401 visa for employment in the household of the executive.

The amendments are primarily to:

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

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

**Human rights implications**

The legislative amendments have been considered against each of the seven core international human rights treaties.

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 human rights issues.

**The Hon. Brendan O'Connor MP, Minister for Immigration and Citizenship**

**ATTACHMENT C****Details of the Migration Amendment Regulation 2013 (No. 1)****Section 1 Name of Regulation**

This section provides that the title of the Regulation is the *Migration Amendment Regulation 2013 (No. 1)*.

**Section 2 Commencement**

This section provides for the Regulation to commence on 23 March 2013.

**Section 3 Authority**

This section provides that the Regulation is made under the *Migration Act 1958*.

**Section 4 Schedule(s)**

This section provides that each instrument that is specified in Schedules 1 to 8 to this instrument is amended or repealed as set out in applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedules 1-8 of the Regulation make amendments to the *Migration Regulations 1994* (the Principal Regulations).

**Schedule 1 – Amendments relating to Subclass 400 (Temporary Work (Short Stay Activity)) visa**

**Item 1 – After item 1230 of Schedule 1**

This item inserts a new item 1231 in Part 2 of Schedule 1 to the Principal Regulations.

New item 1231 sets out the requirements for making a valid application for the new Temporary Work (Short Stay Activity) (Class GA) visa. This new class has one subclass, the Subclass 400 (Temporary Work (Short Stay Activity)) visa.

New subitem 1231(1) provides the form to be used to apply for a visa of Class GA. The approved forms are 1400 or 1400 (Internet).

New subitem 1231(1) also provides that the internet application forms may only be used by an applicant who is in a class of persons specified by the Minister in an instrument in writing.

New subitem 1231(2) provides that the first instalment of the visa application charge (VAC) payable in respect of an application for a visa of Class GA is nil in relation to applicants specified in the table at subitem 1231(2) and \$145 for any other applicant.

New subitem 1231(3) provides other matters relevant to making a valid application. These include that an application, other than an internet application, must be made at an office maintained by or on behalf of the Commonwealth outside Australia, that the applicant must be outside Australia when the application is made, and that an application by a person claiming to be a member of the family unit of another applicant may be made at the same time as, and combined with, the application of that other person.

**Item 2 – After Part 309 of Schedule 2**

This item inserts a new Part 400 – Subclass 400 (Temporary Work (Short Stay Activity)) into Schedule 2 to the Principal Regulations.

New Subclass 400 sets out the criteria and other provisions in relation to a Subclass 400 visa. The Subclass 400 visa is a subclass of the new Temporary Work (Short Stay Activity) (Class GA) which is created by item 1 of this Schedule.

New Subclass 400 replaces some of the eligibility criteria of the repealed Subclass 456 (Business (Short Stay)) visa and Subclass 459 (Sponsored Business Visitor (Short Stay)) visa. Those visas are repealed by items 93 and 99 of Schedule 6 to this Regulation. From 23 March 2013, certain applicants who would have been eligible for a Subclass 456 visa or a Subclass 459 visa now instead must apply for the Subclass 400 visa.

New Subclass 400 has three streams: the Highly Specialised Work stream, the Invited Participant stream, and the Australia's Interest stream.

Details of the provisions for the new Subclass 400 visa are as follows:

*Division 400.1 – Interpretation*

This Division sets out the meaning of the terms *event* and *non-ongoing* as they are used specifically in Subclass 400.

### *Division 400.2 – Primary Criteria*

This Division sets out the criteria to be satisfied by a person seeking to meet the primary criteria for the grant of a Subclass 400 visa. The note provides that an applicant must satisfy the criteria in Subdivision 400.21 (Common criteria) and either of Subdivision 400.22, for the grant of the visa in the Highly Specialised Work stream; Subdivision 400.23, for the grant of the visa in the Invited Participant stream; or Subdivision 400.24, for the grant of the visa in the Australia's Interest stream.

The note also provides that the application will be assessed against as many streams as necessary, whether or not the applicant specifies a particular stream in the application.

#### *Subdivision 400.21 – Common Criteria*

All applicants seeking to satisfy the primary criteria are required to meet the common criteria. These criteria require the applicant to have personal attributes and/or employment background relevant to the applicant's proposed participation in an event or work or activity in Australia. The common criteria also require the applicant to demonstrate a need to be in Australia to participate or engage in the event, activity or work.

The common criteria also require that the applicant does not intend to study for a formal qualification in Australia and genuinely seeks to stay temporarily in Australia for the purpose for which the visa is granted. The applicant is also required to have adequate means to support himself or herself in Australia, to satisfy certain public interest criteria, and to satisfy certain special return criteria relevant to applicants who have previously been in Australia.

#### *Subdivision 400.22 – Criteria for Highly Specialised Work stream*

These criteria require that the applicant will be undertaking work that is highly specialised and non-ongoing. An example of non-ongoing highly specialised work could be the installation of imported equipment, which might require an overseas employee to come to Australia for a short period to do the installation as the expertise required would not be available in Australia.

The applicant must not intend to engage in activities that will have adverse consequences for employment, employment conditions or training of Australian citizens or Australian permanent residents.

The criteria also require that the applicant must not meet the basic eligibility requirements for the grant of a Subclass 420 (Temporary Work (Entertainment)) visa. The intention is that an applicant who intends to do highly specialised work related to entertainment should apply for Subclass 420 visa rather than a Subclass 400 visa.

#### *Subdivision 400.23 – Criteria for Invited Participant stream*

These criteria require the applicant to have been invited to participate in an event on a non-ongoing basis by an organisation that is lawfully operating in Australia. The organisation must be directly responsible for the event or have a formal role in preparing for, or conducting, the event. If requested by the Minister, the applicant must produce a copy of the invitation to participate in the event.

The applicant's participation in the event must be non-ongoing, and the applicant must not receive a salary, wages or other reimbursement from participation in the event, other than an appearance fee, prize money, reasonable expenses, or payment by an overseas employer.

The applicant must not intend to engage in activities that will have adverse consequences for employment, employment conditions or training of Australian citizens or Australian permanent residents.

The criteria also require that the applicant must not meet the basic eligibility requirements for the grant of a Subclass 420 (Temporary Work (Entertainment)) visa. The intention is that an applicant who intends to do work related to entertainment should apply for Subclass 420 visa rather than a Subclass 400 visa.

#### Subdivision 400.24 – Criteria for Australia's Interest stream

These criteria require that there are compelling circumstances that affect Australia's interests and require the applicant's entry and stay in Australia to participate in an event, or engage in an activity or work that relates directly to those circumstances.

Examples of compelling circumstances where the grant of a Subclass 400 visa in this stream could be appropriate include coming to Australia to give assistance in the event of a natural disaster such as a bushfire or flood.

#### *Division 400.3 – Secondary criteria*

This Division sets out the requirements to be met by an applicant seeking the grant of a Subclass 400 visa on the basis of a close family relationship with a person who satisfies the primary criteria. The criteria in Subdivision 400.31 require that the applicant does not intend to study for a formal qualification in Australia and genuinely intends to stay temporarily. The criteria also require the applicant to have adequate means of support, to satisfy certain public interest criteria, and to satisfy certain special return criteria relating to applicants who have previously been in Australia.

#### *Division 400.4 – Circumstances applicable to grant*

This Division provides that the applicant must be outside Australia when the visa is granted.

#### *Division 400.5 – When visa is in effect*

This Division provides that the visa is a temporary visa, permitting the holder to travel to and enter Australia within 3 months from the date of grant and to remain in Australia for 3 months from the date of the first entry or a lesser period if specified by the Minister. During the period of stay the holder may leave and re-enter Australia once only, or more than once if specified by the Minister.

#### *Division 400.6 – Conditions*

This Division sets out the Schedule 8 conditions which must, or may, be attached to the visa in various circumstances.

## **Schedule 2 – Amendments relating to Subclass 600 (Visitor) visa**

### **Item 1 – Regulation 1.03**

This item inserts a definition of new term, ‘business visitor activity’, in regulation 1.03 of Division 1.2 of Part 1 of the Principal Regulations.

The definition sets out what activities are included and excluded by the term ‘business visitor activity’. The purpose of the definition is to facilitate legitimate business activity while precluding visitors from entering the labour market or undertaking work which might otherwise be undertaken by an Australian citizen, permanent resident or the holder of a temporary work visa.

The new term is to be used in the new Subclass 600 (Visitor) visa to define the purposes for which an applicant can be granted a visa in the Business Visitor stream. It also defines one of the purposes for which an applicant may be granted the new Subclass 601 (Electronic Travel Authority) (ETA) visa or the amended Subclass 651 (eVisitor) visa.

The definition is also to be used in visa condition 8115, which is to be imposed on the Visitor (in the Business Visitor stream), ETA and eVisitor visas. Condition 8115 prohibits the holder from working in Australia, other than by engaging in a business visitor activity.

### **Item 2 – After item 1235 of Schedule 1**

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

New item 1236 sets out the requirements for making a valid application for the new Visitor (Class FA) visa. This new class contains one subclass, the Subclass 600 (Visitor) visa. The Subclass contains four streams: the Tourist stream; the Sponsored Family stream; the Business Visitor stream; and the Approved Destination Status stream. New item 1236 sets out the requirements for making a valid application for each stream.

New subitem 1236(1) provides that the approved forms are:

- Tourist stream – 1419 or 1419 (Internet);
- Sponsored Family stream – 1418 and 1149; or 1419 (Internet);
- Business Visitor stream – 1415 or 1419 (Internet); and
- Approved Destination Status stream – 48G or 48G (Electronic)

New subitem 1236(1) also provides that the internet application forms may only be used by an applicant who is in a class of persons specified by the Minister in an instrument in writing. This mechanism provides flexibility to support the progressive global roll-out of online applications for visitor visas.

New paragraph 1236(2)(a) provides that the first instalment of the visa application charge (VAC) is: \$290 for applicants who are in Australia; \$115 for applicants who are outside Australia; and nil for applicants representing a foreign government or in a class of persons specified in an instrument.

New paragraph 1236(2)(b) provides that the second instalment of the VAC is nil.

This maintains the VACs set out in the Tourist (Class TR) visa.

New subitem 1236(3) sets out additional requirements for making a valid application for a Subclass 600 (Visitor) visa in the Tourist stream. The requirements are set out in a table providing that: if an applicant is in Australia, the application must be made in Australia; if the applicant is outside Australia, the application must be made outside Australia; and an applicant may make an oral application for the visa only if the applicant is in Australia (but not in immigration clearance) and holds a Subclass 600 (Visitor) visa or a Subclass 676 (Tourist) visa. A note states that regulation 2.09 deals with oral applications. The effect of regulation 2.09 is that an oral application for a Subclass 600 visa can only be made if the Minister specifies, in an instrument in writing, an office at which an oral application can be made. These requirements maintain the previous requirements for tourists, set out in the Tourist (Class TR) visa.

New subitem 1236(4) sets out additional requirements for making a valid application for a Subclass 600 (Visitor) visa in the Sponsored Family stream. The requirements are set out in a table providing that the applicant must be outside Australia and the application must be made in a manner specified by the Minister in an instrument in writing. These requirements maintain the previous requirements for sponsored family applicants, set out in the Sponsored (Visitor) (Class UL) visa, which are repealed by item 58 of Schedule 6 to this Regulation, while also allowing greater flexibility to manage visa processing in the future, e.g. by allowing applications to be made offshore.

New subitem 1236(5) sets out additional requirements for making a valid application for a Subclass 600 (Visitor) visa in the Business Visitor stream. The requirements are set out in a table providing that the application must be made outside Australia and the applicant must be outside Australia when the application is made. These requirements maintain the previous requirements for business visitors, set out in the Temporary Business Entry (Class UC) visa.

New subitem 1236(6) sets out additional requirements for making a valid application for a Subclass 600 (Visitor) visa in the Approved Destination Status stream. The requirements are set out in a table providing that: the applicant must be a citizen of the People's Republic of China (PRC); the applicant must be in the PRC at the time of application; the applicant must be intending to travel to Australia as a member of a tour organised by a travel agent specified in an instrument; and the application must be made at an Australian diplomatic, consular or migration office in the PRC. These requirements maintain the previous requirements for this cohort, set out in the Tourist (Class TR) visa.

New subitem 1236(7) provides that the new Subclass 600 (Visitor) visa is the only subclass of the Class FA visa.

### Item 3 – After Part 580 of Schedule 2

This item inserts a new Part 600 – Subclass 600 (Visitor) in Schedule 2 to the Principal Regulations. The new Subclass 600 visa replaces the Subclass 676 (Tourist) visa, the Subclass 679 (Sponsored Family) visa, the Subclass 456 (Business – Short Stay) visa, and the Subclass 459 (Sponsored Business Visitor – Short Stay) visa.

Many of the criteria for the new Subclass 600 visa are consistent with the criteria for the visas that it replaces. The main differences are:

- the introduction of a sponsorship criterion on a discretionary basis within the Tourist stream (clause 600.224), which does not exist in Subclass 676; and



- the removal of work rights for business visitors, except when the work is business visitor activity, which is defined in regulation 1.03 of Division 1.2 of Part 1 of the Principal Regulations. Visitors intending to do other work in Australia need to apply for the appropriate temporary work visa. Short-term specialised work is catered for by the Subclass 400 (Short Stay Activity) visa, which is inserted by Schedule 1 to this Regulation.

The new Subclass 600 visa is the only subclass in the new Visitor (Class FA) visa, inserted in Part 2 of Schedule 1 to the Principal Regulations by item 2 of this Schedule.

Applicants seeking to satisfy the criteria for a Subclass 600 visa are required to satisfy the common criteria and the criteria for the stream in which they have applied. There are four streams in the new Subclass 600 visa: the Tourist stream; the Sponsored Family stream; the Business Visitor stream; and the Approved Destination Status stream. An application is made for one stream only, and the application is only be assessed against the criteria for that stream. All applicants need to meet the primary criteria. There are no secondary criteria for family members.

Details of the provisions of the new Part 600 (Subclass 600 visa) are as follows:

#### *Division 600.1 - Interpretation*

This Division contains two notes. The first note refers to the definition of business visitor activity in regulation 1.03. The second note provides that there are no interpretation provisions specific to Part 600 of the Regulations.

#### *Division 600.2 - 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 600 visa. The note provides that the primary criteria for the grant of the visa in each stream are:

- Tourist stream: Subdivisions 600.21 and 600.22;
- Sponsored Family stream: Subdivisions 600.21 and 600.23;
- Business Visitor stream: Subdivisions 600.21 and 600.24; and
- Approved Destination Status stream: Subdivisions 600.21 and 600.25.

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

#### *Subdivision 600.21 - Common criteria*

All applicants are required to meet the common criteria. The common criteria require the applicant to have a genuine intention to stay in Australia temporarily. The applicant is also required to have adequate means to support himself or herself in Australia, to satisfy certain public interest criteria, and to satisfy certain special return criteria relevant to applicants who have previously been in Australia. In addition, the Minister must be satisfied that there are exceptional circumstances if the grant of the visa would allow the applicant to remain in Australia as a visitor for a total period exceeding 12 months.

### Subdivision 600.22 - Criteria for the Tourist stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Tourist stream.

These criteria require the applicant to have an intention to visit or remain in Australia to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant. Alternatively, the criteria require the applicant to intend to visit or remain in Australia for any other purpose that is not related to business or medical treatment. The cohort of applicants intending to visit Australian relatives are separately identified to ensure that merits review rights are provided to the Australian relatives, in accordance with subsection 338(7) of the *Migration Act 1958* (the Act). These criteria reflect the criteria in the Subclass 676 visa.

The criteria also require that an applicant in Australia must not be seeking the visa in order to commence, continue or complete a registered course in which the applicant is enrolled.

The criteria also require an applicant in Australia to hold, or have last held, a substantive visa other than a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa or a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream, and to satisfy Schedule 3 criteria which require applications to be made within a specified time of the expiry of a substantive visa. These criteria reflect the criteria in the Subclass 676 visa.

The criteria also require the applicant to be sponsored by a relative, who is a settled Australian citizen or settled permanent resident, but only if the Minister requests a sponsorship. This is a new criterion for tourists with Australian relatives. The capacity to request the applicant to arrange sponsorship provides additional flexibility to deal with applicants who would otherwise not meet visa criteria. The range of relatives who can provide sponsorship is the same as in the Sponsored Family stream. The sponsorship criterion mirrors the sponsorship criterion in the Sponsored Family stream, except that a broader range of sponsors can sponsor applicants for the Sponsored Family stream (see Subdivision 600.23 below).

The criteria also require that, if an applicant is not a relative of the sponsor, another applicant, who is a relative of the sponsor, has been granted a visa. The purpose of this provision is to require that, if a family group is sponsored, no member of the family can be granted a visa if the applicant who is a relative of the sponsor is not granted a visa. This criterion replicates a criterion in the Subclass 679 visa.

The criteria also require a security to be lodged if requested by an officer authorised under section 269 of the Act. This requirement only applies to applications supported by a sponsorship. Section 269 of the Act permits an authorised officer to require the lodgement of a security in order to ensure compliance with visa conditions.

### Subdivision 600.23 - Criteria for the Sponsored Family stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the criteria for a Subclass 600 visa in the Sponsored Family stream.

These criteria require the applicant to have an intention to visit or remain in Australia to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant. Alternatively, the criteria require the applicant to intend to visit or remain in Australia for any other purpose that is not related to business or medical treatment. The cohort of applicants intending to visit Australian relatives is separately identified to ensure that merits review rights are provided to the Australian relatives, in accordance with subsection 338(7) of the Act. This criterion reflects the criterion in the repealed Subclass 679 visa.

The criteria also require the applicant to be sponsored. The sponsorship criterion allows sponsorship by a relative over the age of 18 who is a settled Australian citizen or settled permanent resident. The criteria also allow sponsorship by a Commonwealth government agency or instrumentality, a State or Territory government agency or instrumentality, a member of the Commonwealth or State Parliament, a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory, or a person who holds the office of mayor. This criterion replicates the criterion in the repealed Subclass 679.

The criterion which identifies which relatives can provide sponsorship replicates the provision in the former Subclass 679 visa, except that a technical modification is made to ensure that the provision does not exclude any members of a family unit from eligibility for sponsorship by a relative of another member of the family unit who is also an applicant.

The criteria also require that, if an applicant is not a relative of the sponsor, another applicant, who is a relative of the sponsor, has been granted a visa. The purpose of this provision is to require that, if a family group is sponsored, no member of the family can be granted a visa if the applicant who is a relative of the sponsor is not granted a visa. This criterion replicates a criterion in the Subclass 679 visa.

The criteria also require a security to be lodged if requested by an officer authorised under section 269 of the Act. Section 269 of the Act permits an authorised officer to require the lodgement of a security in order to ensure compliance with visa conditions.

#### Subdivision 600.24 - Criteria for the Business Visitor stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the criteria for a Subclass 600 visa in the Business Visitor stream.

These criteria require the applicant has an intention to visit Australia to engage in a business visitor activity, which is defined in regulation 1.03 of Division 1.2 of Part 1 of the Principal Regulations (see item 1 of this Schedule).

The criteria also require that the applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

#### Subdivision 600.25 - Criteria for the Approved Destination Status stream

A note provides that these criteria are to be satisfied only by those applicants seeking to satisfy the criteria for a Subclass 600 visa in the Approved Destination Status stream.

The criteria for the Approved Destination Status stream replicate criteria in the Subclass 676 visa. The name of the stream reflects the name used by the PRC to refer to a program to facilitate outbound tourism to approved destinations.

The criteria require the applicant to be a citizen of the PRC, who resides in an area of the PRC specified in an instrument in writing, and who intends to travel to Australia as part of a sightseeing tour organised by a travel agent specified in an instrument in writing. The criteria also require that a statement of the travel and touring arrangements has been provided to the Minister.

#### *Division 600.3 - Secondary criteria*

A note provides that there are no secondary criteria for Part 600 and the primary criteria must be satisfied by all applicants.

#### *Division 600.4 - Circumstances applicable to grant*

This Division provides that if the applicant is in Australia at time of application, the applicant must be in Australia when the visa is granted. If the applicant is outside Australia at time of application, the applicant must be outside Australia when the visa is granted.

The Division also provides that an applicant for a Subclass 600 visa in the Approved Destination Status stream must be in the PRC at the time of grant.

#### *Division 600.5 - When visa is in effect*

This Division provides that the Subclass 600 visa is a temporary visa, and sets out when the applicant is permitted to travel to, enter and remain in Australia. The Division provides discretion to the Minister to specify the number of entries and the length of stay permitted by the visa.

The Division also provides that a Subclass 600 visa granted on the basis of a deemed application under regulation 2.07AA, will not come into effect until any substantive visa already held by that person ceases to be in effect. Regulation 2.07AA (see items 9 – 11 of Schedule 6 to this Regulation) provides for a deemed application for a Subclass 600 visa in the Business Visitor stream by the holder of an Asia Pacific Economic Co-operation Business Travel Card (ABTC) when relevant information is provided to the Department. The provision ensures that ABTC holders do not lose the benefit of any currently held substantive visa as a result of a deemed application and subsequent grant of a Subclass 600 visa. The grant of a Subclass 600 visa would otherwise cause the other substantive visa to cease to be in effect under subsection 82(2) of the Act.

#### *Division 600.6 - Conditions*

This Division sets out the Schedule 8 conditions which must, or may, be attached to the visa in various circumstances.

Item 4 – After clause 8114 of Schedule 8

This item inserts a new visa condition into the list of visa conditions set out at Schedule 8 to the Principal Regulations. These conditions are variously applied to visa subclasses as set out in Schedule 2 to the Principal Regulations. The new condition is identified as 8115 and provides that the holder must not work in Australia other than engaging in a business visitor activity. Business visitor activity is defined in regulation 1.03 of Division 1.2 of Part 1 of the Principal Regulations (item 1 of this Schedule).

Condition 8115 clarifies the scope of work which may be undertaken by business visitors. The condition must be imposed on grants of the following visas:

- Subclass 600 (Visitor) visa in the Business Visitor stream;
- Subclass 601 (Electronic Travel Authority) visa; and
- Subclass 651 (eVisitor) visa.

The other streams of the Subclass 600 visa, which are the Tourist stream, Sponsored Family stream, and Approved Destination Status stream, are be subject to condition 8101 which does not permit the visa holder to undertake any work in Australia.

Prospective visa applicants intending to work in Australia need to apply for the appropriate temporary work visa. Short-term specialised work is catered for by the Subclass 400 (Short Stay Activity) visa, which is inserted by Schedule 1 of this Regulation.

**Schedule 3 – Amendments relating to Subclass 601 (Electronic Travel Authority) visa**Item 1 – Item 1208A of Schedule 1

This item repeals item 1208A and substitutes new item 1208A in Part 2 of Schedule 1 to the Principal Regulations.

New item 1208A sets out the requirements for making a valid application for the new Electronic Travel Authority (Class UD) visa. This new class has one subclass, the Subclass 601 (Electronic Travel Authority) visa. The Subclass 601 visa replaces the Subclass 956 (Electronic Travel Authority (Business Entrant – Long Validity)) visa, the Subclass 976 (Electronic Travel Authority (Visitor)) visa and the Subclass 977 (Electronic Travel Authority (Business Entrant – Short Validity) visa, which is repealed by items 297, 298 and 299 of Schedule 6 to this Regulation.

The requirements for making a valid application for a Subclass 956, Subclass 976 or Subclass 977 visa were previously prescribed in item 1208A of Part 2 of Schedule 1 to the Principal Regulations.

The requirements for making a valid application for a visa of Electronic Travel Authority (Class UD) in new item 1208A replicate the previous requirements under item 1208A, with minor amendments and only one subclass, the new Subclass 601 (Electronic Travel Authority) visa.

New subitem 1208A(1) provides that there is no approved form. The note provides that an application for this visa must be made in a way set out in regulation 2.07AB, which does not require a form.

New paragraph 1208A(2)(a) provides that the first instalment of the visa application charge (VAC) is nil.

New paragraph 1208A(2)(b) provides that the second instalment of the visa application charge (VAC) is nil.

New subitem 1208A(3) sets out the other requirements for making a valid application for a visa of the Class UD.

New paragraph 1208A(3)(a) provides that an application may be made in or outside Australia.

New paragraph 1208A(3)(b) requires that if an application is made in immigration clearance, the applicant must be in immigration clearance when the application is made.

New paragraph 1208A(3)(c) requires that if an application is made in Australia (except in immigration clearance), or outside Australia, the applicant must be outside Australia when the application is made.

New paragraph 1208A(3)(d) sets out the requirements for making a valid application outside Australia for a visa of the new class UD.

New subparagraph 1208A(3)(d)(i) provides that an application made outside Australia may be made at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth of Australia.

Alternatively, new subparagraph 1208A(3)(d)(ii) provides that an application made outside Australia may be made at an office of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made.

New paragraph 1208A(3)(e) sets out the requirements for making a valid application in Australia for a visa of the new Class UD.

New subparagraph 1208A(3)(e)(i) provides that an application made in Australia may be made in immigration clearance.

Alternatively, new subparagraph 1208A(3)(e)(ii) provides that an application made in Australia may be made at an office of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made.

New paragraph 1208A(3)(f) provides that an applicant must hold an ETA-eligible passport.

New subitem 1208A(4) provides that the new Subclass 601 (Electronic Travel Authority) visa is the only subclass of the Class UD visa.

#### Item 2 – After Part 600 of Schedule 2

This item inserts a new Part 601 – Subclass 601 (Electronic Travel Authority), in Schedule 2 to the Principal Regulations.

New Part 601 sets out the criteria and other provisions in relation to the grant of a Subclass 601 (Electronic Travel Authority) visa.

The new Subclass 601 visa replaces the Subclass 956 (Electronic Travel Authority (Business Entrant – Long Validity)) visa, the Subclass 976 (Electronic Travel Authority (Visitor)) visa and the Subclass 977 (Electronic Travel Authority (Business Entrant – Short Validity) visa, which is repealed by items 297, 298 and 299 of Schedule 6 to this Regulation. Many of the criteria for the new Subclass 601 are consistent with the criteria for the repealed visas that it replaces.

The new Subclass 601 visa is the only subclass in the Electronic Travel Authority (Class UD) visa which is inserted by item 1 of this Schedule.

All applicants seeking to satisfy the criteria for a Subclass 601 visa are required to satisfy the primary criteria in Division 601.2. There are no streams in new Subclass 601 and there are no secondary criteria.

Details of the provisions of the new Part 601 (Subclass 601 visa) are as follows:

#### *Division 601.1 – Interpretation*

This Division sets out the meaning of certain terms used in the new Subclass 601 visa. The first note provides that the terms “ETA-eligible passport” and “business visitor activity” are defined in regulation 1.03.

A further note clarifies that there are no interpretation provisions specific to this Part.

#### *Division 601.2 – 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 601 visa. The note provides that the primary criteria in subdivision 601.21 for the grant of a Subclass 601 visa must be satisfied by all applicants.

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

#### *Subdivision 601.21 – Criteria*

The criteria require that applicants hold a passport that is an ETA-eligible passport.

The criteria also require the applicant to satisfy certain requirements relating to a genuine intention to visit Australia temporarily as a tourist or to engage in a business visitor activity, public interest criteria and special return criteria.

#### *Division 601.3 – Secondary criteria*

A note explains that there are no secondary criteria to be satisfied for the Subclass 601 visa.

*Division 601.4 – Circumstances applicable to grant*

This Division provides that if the application is made in immigration clearance, the applicant must be in immigration clearance when the visa is granted. If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

*Division 601.5 – When visa is in effect*

New clause 601.511 provides that the visa is a temporary visa, and sets out when the applicant is permitted to travel to, enter and remain in Australia.

New clause 601.512 provides that, if the applicant already holds a substantive visa (other than a Special Purpose visa or a Subclass 988 (Maritime Crew) visa) that is in effect at the time of grant, the Subclass 601 visa comes into effect when the other substantive visa ceases to be in effect.

The note clarifies that if the visa period of the Subclass 601 visa ends before the other substantive visa ceases, the Subclass 601 visa never comes into effect.

New clause 601.513 provides that if the applicant already holds a substantive visa that is in effect at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

*Division 601.6 – Conditions*

This Division sets out the Schedule 8 conditions which must be attached to the visa.

**Schedule 4 – Amendments relating to Subclass 602 (Medical Treatment) visa****Item 1 – Item 1214A of Schedule 1**

This item repeals item 1214A and substitutes new item 1214A in Part 2 of Schedule 1 to the Principal Regulations.

New item 1214A sets out the requirements for making a valid application for the new Medical Treatment (Visitor) (Class UB) visa. This new class has one subclass, the Subclass 602 (Medical Treatment) visa. The Subclass 602 visa replaces the Subclass 675 – Medical Treatment (Short Stay) and the Subclass 685 – Medical Treatment (Long Stay) visas which are repealed by items 239 and 245 of Schedule 6 to the Regulation. These visas have similar criteria, the main difference being the duration of the permitted stay. The Subclass 602 visa consolidates and streamlines the visa criteria.

New subitem 1214A(1) provides that the approved form is form 48ME.

New subitem 1214A(2) provides the applicable visa application charges for the Medical Treatment (Visitor) (Class UB) visa.

New paragraph 1214A(2)(a) provides that the first instalment of the visa application charge is \$245 for an applicant who is in Australia at the time of application and who does not apply in the course of acting as a representative for a foreign government. The visa application charge is nil for an applicant who is outside Australia at the time of application or who applies in the course of acting as a representative for a foreign government.



New paragraph 1214A(2)(b) provides that the second instalment of the visa application charge is nil.

New subitem 1214A(3) sets out further requirements for making a valid application.

In particular, subparagraph 1214A(3)(a)(i) to subparagraph 1214A(3)(a)(iii) set out the method of lodgement required to make a valid application.

New subparagraph 1214A(3)(b) provides where an applicant who is outside Australia must make their application.

New subparagraph 1214A(3)(c) provides where the applicant must be in order to make a valid application.

New subparagraph 1214A(3)(d) provides that an application by a person included in the passport of an applicant for a Medical Treatment (Visitor) (Class UB) visa may be made at the same time and place as, and combined with, the application of that applicant.

New subitem 1214A(4) provides that the Subclass 602 (Medical Treatment) visa is the only subclass in the Class UB visa.

#### Item 2 – After Part 601 of Schedule 2

This item inserts new Part 602 – Subclass 602 (Medical Treatment), in Schedule 2 to the Principal Regulations.

Part 602 sets out the criteria for, and other provisions in relation to, the grant of a Subclass 602 (Medical Treatment) visa.

The new Subclass 602 (Medical Treatment) visa replaces the Subclass 675 – Medical Treatment (Short Stay) and the Subclass 685 – Medical Treatment (Long Stay) visas which are repealed by items 239 and 245 of Schedule 6 to the Regulation.

The new Subclass 602 visa is the only subclass in the new Medical Treatment (Visitor) (Class UB) visa.

Details of the provisions of the new Part 602 (Subclass 602 visa) are as follows:

#### *Division 602.1 – Interpretation*

A note states that there are no interpretation provisions specific to this Part.

#### *Division 602.2 – Primary Criteria*

This Division sets out the primary criteria for the grant of a Subclass 602 visa. The note provides that all applicants must satisfy the primary criteria unless the applicant is a family member of a person who already holds a Medical Treatment visa on the basis of meeting the ‘unfit to depart’ criterion.

The note also provides that family members of persons who already hold a Medical Treatment visa on the basis of the ‘unfit to depart’ category must meet the secondary criteria. The purpose of this distinction is to allow visa grant to family members, through streamlined and less onerous secondary criteria, to allow those family members to be with the family member who has a permanent and deteriorating illness and is unable to depart Australia.

All other applicants, including their family members, are required to meet the primary criteria.

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

New clause 602.211 provides that the purpose of the visit must be for medical treatment or for related purposes.

New clause 602.212 sets out the requirements specific to each cohort of applicants.

New subclause 602.212(2) sets out the requirements to be met for the “Medical Treatment” category of applicants who seek medical treatment or consultation, other than treatment for the purposes of surrogate motherhood.

New subclause 602.212(3) sets out the requirements to be met for the “Organ Donor” category of applicants who seek to donate an organ for transplant.

New subclause 602.212(4) sets out the requirements to be met for the “Support Person” category of applicants who seek to give emotional or other support to an applicant in the “Medical Treatment” or “Organ Donor” cohorts described in subclauses 602.212(2) and 602.212(3). A support person will not be granted a visa until the person they were seeking to support was granted a visa.

New subclause 602.212(5) sets out the requirements to be met for the “Western Province of Papua New Guinea” category, comprised of applicants who require medical evacuation to, or treatment in, a hospital in Queensland.

New subclause 602.212(6) sets out the requirements to be met for the “Unfit to Depart” category of applicants who are medically unfit to depart due to a permanent and deteriorating disease or condition. The criteria ensure that eligibility for the visa does not arise in situations where the applicant’s disease or health condition is temporary in nature.

New subclause 602.212(7) sets out the requirements to be met for the “Financial Hardship” category of applicants who hold a medical treatment visa and who meet certain criteria in the “Medical Treatment”, “Organ Donor”, “Support Person”, “Western Province of Papua New Guinea” or “Unfit to Depart” categories and who, for reasons of financial hardship, require a visa with work rights.

New subclause 602.212(8) sets out the requirements to be met for the “Compelling Reasons for Grant” category of applicants who meet criteria, other than health or financial criteria, for the “Medical Treatment”, “Organ Donor”, “Support Person”, “Western Province of Papua New Guinea” or “Unfit to Depart” categories, and who have compelling personal reasons for the grant of the visa.

New clause 602.213 provides that, apart from applicants in the “Unfit to Depart” category, an applicant in Australia must hold, or have last held, a substantive visa other than a Subclass 426 (Domestic Worker (Temporary) – Diplomatic or Consular) visa or a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream, and must satisfy Schedule 3 criteria which require applications to be made within a specified time of the expiry of a substantive visa.

New clause 602.214 requires that no Australian citizen or permanent resident will be disadvantaged in obtaining medical treatment or consultation if the visa is granted. The clause also provides that this requirement does not apply to applicants in the “Unfit to Depart” category.

New clause 602.215 requires that the applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted. The clause also provides that this requirement does not apply to applicants in the “Unfit to Depart” category.

New clause 602.216 requires that an applicant has adequate means to support himself or herself. The clause also provides that this requirement does not apply to applicants in the “Unfit to Depart” category.

New clauses 602.217- 602.219A set out further public interest criteria and special return criteria which must be satisfied by applicants for the Subclass 602 visa.

New clause 602.219B requires that the purpose of the applicant’s stay must not be to study in Australia, and that the grant of the visa would not authorise a total stay of more than 12 months as a visitor unless there are compelling personal reasons or exceptional circumstances. The clause also provides that these requirements do not apply to applicants in the “Unfit to Depart”, “Financial Hardship” or “Compelling Reasons for Grant” categories.

### *Division 602.3 Secondary Criteria*

This Division sets out the requirements to be met by an applicant who is seeking to satisfy the secondary criteria for the grant of a Subclass 602 visa.

The note provides that secondary criteria must be met by applicants who are family members of persons who meet the ‘unfit to depart’ primary criteria. The purpose of this distinction is to allow visa grant to family members, through streamlined and less onerous secondary criteria, to allow those family members to be with the family member who has a permanent and deteriorating illness and is unable to depart Australia.

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

New clause 602.311 provides that the applicant may meet the secondary criteria if they are a member of the family unit of a person who holds a Subclass 602 visa or a Subclass 685 visa in the “Unfit to Depart” category.

New clauses 602.312 and 602.313 require secondary applicants to meet certain public interest criteria and special return criteria.

New clause 602.314 provides for a secondary applicant who is suffering financial hardship to be granted a Subclass 602 visa with work rights in the relevant circumstances.

*Division 602.4 – Circumstances applicable to grant*

This Division provides that an applicant for a Subclass 602 visa who is in Australia at the time of application must be in Australia at the time of grant, and an applicant who is outside Australia at the time of application must be outside Australia at the time of grant.

*Division 602.5 – When visa is in effect*

This Division provides that the visa is a temporary visa permitting an applicant to make multiple entries into Australia until a date specified by the Minister, and permitting the applicant to remain in Australia for a period specified by the Minister.

*Division 602.6 – Conditions*

This Division sets out the Schedule 8 conditions which must be attached to the visa in specified circumstances.

**Schedule 5 – Amendments relating to Subclass 651 (eVisitor) visa****Item 1 – Part 651 of Schedule 2**

This item repeals Part 651 and substitutes new Part 651 – Subclass 651 (eVisitor), in Schedule 2 to the Principal Regulations.

New Part 651 sets out the criteria and other provisions in relation to the grant of a Subclass 651 (eVisitor) visa.

The new Subclass 651(eVisitor) visa replaces the previous Subclass 651 (eVisitor) visa. The new subclass aligns with the new Subclass 600 (Visitor) visa and new Subclass 601 (Electronic Travel Authority) visa by permitting entry to Australia for the purpose of tourism or to engage in a business visitor activity. A definition of ‘business visitor activity’ is inserted by item 1 of Schedule 2 to this Regulation. In addition, the limited work rights provided to business visitors by the previous Subclass 651 visa are replaced in the Subclass 651 visa by condition 8115 which prohibits work except for business visitor activity (item 4 of Schedule 2 to this Regulation).

As with the previous Subclass 651 visa, the new Subclass 651 visa is the only subclass in the Visitor (Class TV) visa.

Applicants seeking to satisfy the primary criteria for a Subclass 651 visa are required to satisfy the criteria in subdivision 651.21. There are no streams in new Subclass 651.

Details of the provisions of the new Part 651 (Subclass 651 visa) are as follows:

*Division 651.1 – Interpretation*

This Division sets out the meaning of certain terms used in the Subclass 651 visa. The note provides that the terms “eVisitor eligible passport” and “business visitor activity” are defined in regulation 1.03.

A further note clarifies that there are no interpretation provisions specific to this Part.

*Division 651.2 – 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 651 visa. The note provides that the primary criteria in subdivision 651.21 for the grant of a Subclass 651 visa must be satisfied by all applicants.

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

*Subdivision 651.21 – Criteria*

All applicants seeking to satisfy the primary criteria are required to meet these criteria.

The criteria require applicants to hold a passport that is an eVisitor eligible passport.

The criteria also require applicants to satisfy certain requirements relating to a genuine intention to visit Australia temporarily as a tourist or to engage in a business visitor activity, public interest criteria and special return criteria.

*Division 651.3 – Secondary criteria*

A note explains that there are no secondary criteria for the Subclass 651 visa.

*Division 651.4 – Circumstances applicable to grant*

This Division provides that the applicant must be outside Australia when the visa is granted.

*Division 651.5 – 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 651.6 – Conditions*

This Division sets out the Schedule 8 conditions which must be attached to the visa.

**Schedule 6 – Further amendments relating to Schedules 1 to 5 and temporary work visas****Item 1 – Regulation 1.03 (definition of *person designated under regulation 2.07AO*)**

This item repeals the definition of “person designated under regulation 2.07AO” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations.

The repeal is consequential to item 12 of this Schedule, which repeals regulation 2.07AO.

**Item 2 – Regulation 1.03 (definition of *substituted Subclass 676 visa*)**

This item repeals the definition of “substituted Subclass 676 visa” in regulation 1.03 in Division 1.2 of Part 1 of the Principal Regulations, and substitutes a new definition, “substituted Subclass 600 visa”.

A “substituted Subclass 676 visa” is defined to mean “a Subclass 676 (Tourist) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 345, 351, 391, 417, 454 or 501J of the Act.” These provisions of the Act give the Minister a personal power to grant visas in a range of circumstances. A “substituted Subclass 676 visa” granted by the Minister under these powers enables a holder to satisfy certain eligibility criteria in Schedule 2 to the Principal Regulations for the grant of a Subclass 143 (Contributory Parent) visa, a Subclass 804 (Aged Parent) visa, a Subclass 864 (Contributory Aged Parent) visa, and a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

The new definition provides that a substituted Subclass 600 visa is “a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 345, 351, 391, 417, 454 or 501J of the Act; or a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 345, 351, 391, 417, 454 or 501J of the Act.” The new definition is consequential to the creation of the Subclass 600 (Visitor) visa, and includes both a Subclass 676 visa granted by the Minister under these special powers before 23 March 2013 and a new Subclass 600 visa granted on or after 23 March 2013. This ensures that no entitlements are removed by the amendment of the previous definition, as a Subclass 676 visa granted before 23 March 2013 continues to satisfy the criteria for a relevant visa applied for on or after that date.

The amendment has ancillary amendments by numerous items in this Schedule, for example, items 51 to 57.

#### Item 3 – Regulation 1.06 (note)

Regulation 1.06 in Division 1.2 of Part 1 of the Principal Regulations clarifies how a class of visas may be referred to. This item repeals the note in regulation 1.06 and substitutes a new note which states that a Special Program (Temporary) (Class TE) visa may be referred to as a Class TE visa, to provide an example of how a class of visas may be referred to.

This is a technical amendment to replace the reference in the note to the Cultural/Social (Temporary) Class which was renamed as the Special Program (Temporary) (Class TE) on 24 November 2012 by the *Migration Legislation Amendment Regulation 2012 (No. 4)*.

#### Items 4 to 8 – Regulation 1.20L (heading); Subregulation 1.20L(1); Subregulation 1.20L(2); Paragraph 1.20L(3)(a); and Paragraph 1.20L(4)(a)

These items amend regulation 1.20L in Division 1.4B of Part 1 of the Principal Regulations to replace references to Subclass 679 (Sponsored Family Visitor (Short Stay)) and Subclass 459 (Sponsored Business Visitor (Short Stay)) with references to Subclass 600 (Visitor).

Regulation 1.20L provides for limitations on sponsorships in relation to family visitor visas. Subject to specified exceptions, a sponsorship cannot be approved if another person sponsored by the sponsor currently holds a visa, or if another person sponsored by the sponsor breached a condition of the visa and five years have not elapsed since the visa was granted.

The amendments are consequential to the introduction of the Subclass 600 (Visitor) visa and the repeal of the Subclass 459 (Sponsored Business Visitor (Short Stay)) visa. The amendments also make technical amendments to remove any doubt about whether the five year prohibition on sponsorship applies if the previously sponsored person, who breached a visa condition, was the same person who is the subject of the later sponsorship.

Items 9 to 11 – Subregulation 2.07AA(2); Paragraph 2.07AA(3)(a); and Paragraph 2.07AA(3)(b)

These items amend subregulation 2.07AA(2), paragraph 2.07AA(3)(a) and paragraph 2.07AA(3)(b) in Division 2.2 of Part 2 of the Principal Regulations to omit the words “a Temporary Business Entry (Class UC) visa” and substitute “a Subclass 600 (Visitor) visa in the Business Visitor stream”.

The amendments are consequential to the repeal of the Subclass 456 (Business (Short Stay)) visa by item 93 of this Schedule.

The amendments provide that a holder of an Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC) who meets the requirements set out in subregulation 2.07AA(2) is taken to have made a valid application for the new Subclass 600 (Visitor) visa in the Business Visitor stream instead of a Temporary Business Entry (Class UC) visa.

Item 12 – Regulation 2.07AO

This item repeals regulation 2.07AO in Division 2.2 of Part 2 of the Principal Regulations.

The regulation enables a defined cohort of holders or former holders of Temporary Protection visas and Temporary Humanitarian visas, who were in Australia at the time the legislation commenced in August 2004, to apply for certain temporary or permanent visas. The regulation is now redundant because there are no longer any persons in the defined cohort.

Item 13 – Paragraph 2.12(1)(ca)

This item omits the words “subject to subregulation (3),” from paragraph 2.12(1)(ca) in Division 2.2 of Part 2 of the Principal Regulations.

The amendment is consequential to the amendment in item 14 of this Schedule.

Item 14 – Subregulation 2.12(3)

This item repeals subregulation 2.12(3) in Division 2.2 of Part 2 of the Principal Regulations.

Regulation 2.12 sets out the circumstances in which an applicant can make a valid application for a visa in Australia despite being subject to section 48 of the Act following a previous cancellation or refusal decision. Subregulation 2.12(3) provides that paragraph 2.12(1)(ca), permitting an application for a Medical Treatment (Visitor) (Class UB) visa, only applies to a person who meets specified Schedule 2 criteria for the grant of the visa.

In the judgment in *SZQAN v MIAC* [2011] FMCA 501, the Federal Magistrates Court held that subregulation 2.12(3) does not operate to prevent a valid application for a Medical Treatment visa by a non-citizen who is subject to section 48 of the Act. The subregulation is therefore redundant.

Item 15 – Division 2.2AA

This item repeals Division 2.2AA of Part 2 of the Principal Regulations which is headed *Special provisions relating to persons designated under regulation 2.07AO*.

The repeal of Division 2.2AA is consequential to the repeal of regulation 2.07AO by item 12 of this Schedule.

Item 16 – Subregulation 2.12F(2)

This item omits the words “the circumstances are as follows” and substitutes the words “each of the following is a circumstance” in subregulation 2.12F(2) in Division 2.2A of Part 2 of the Principal Regulations.

This is a technical amendment to clarify the subregulation.

Item 17 – Paragraph 2.12F(2)(d)

This item repeals paragraph 2.12F(2)(d) and substitutes a new paragraph 2.12F(2)(d) in Division 2.2A of Part 2 of the Principal Regulations.

Paragraph 2.12F(2)(d) provides that a circumstance in which the Minister can refund the first instalment of the visa application charge is that the applicant satisfied financial hardship criteria in Schedule 2 to the Principal Regulations for the grant of a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa.

The new paragraph 2.12F(2)(d), in conjunction with the paragraph 2.12F(2)(da) and paragraph 2.12F(2)(db), preserves the power of the Minister to refund the visa application charge, in relation to relevant visa applications lodged before 23 March 2013, and provides a power to refund the visa application charge to applicants who satisfy financial hardship criteria for grant of the new Subclass 600 (Visitor) visa and the amended Medical Treatment (Visitor) (Class UB) visa.

Items 18 and 19 – Sub-subparagraph 2.15(1)(b)(ii)(A); and Subparagraph 2.15(3)(b)(i)

These items insert references to the new Subclass 600 (Visitor) visa after the references to a Tourist (Class TR) visa in sub-subparagraph 2.15(1)(b)(ii)(A) and subparagraph 2.15(3)(b)(i) of Division 2.3 of Part 2 of the Principal Regulations.

Regulation 2.15 sets out, for the purpose of section 58 of the Act, the period within which a visa applicant may respond to a request for information or attend an interview.

Sub-subparagraph 2.15(1)(b)(ii)(A) and subparagraph 2.15(3)(b)(i) provide that, in respect of an application for a Medical Treatment (Visitor) (Class UB) visa or a Tourist (Class TR) visa by a person in Australia, the period is seven days. The amendment provides that in respect of an application for a new Subclass 600 (Visitor) visa by a person in Australia, the period within which an applicant must respond or attend an interview is also seven days.

The amendment is consequential to the creation of the Subclass 600 (Visitor) visa by item 3 of Schedule 2 to this Regulation.



Item 20 – After paragraph 2.19B(a)

This item inserts new paragraph 2.19B(aa) and (ab) in regulation 2.19B of Division 2.4 of Part 2 of the Principal Regulations. The new paragraphs refer to the Subclass 601 (Electronic Travel Authority) visa and the Subclass 651 (eVisitor) visa, respectively.

Regulation 2.19B sets out, for the purpose of paragraph 71B(1)(d) of the Act, the circumstances in which a visa holder may request evidence of the visa. The regulation provides that evidence may not be requested in relation to certain visas which may be granted on the basis of an online application. The new paragraphs 2.19B(aa) and (ab) add the Subclass 601 (Electronic Travel Authority) visa and the Subclass 651 (eVisitor) visa to the online visas for which a prescribed form of evidence is not available.

Item 21 – Paragraph 2.21B(1)(a)

This item omits the words “or form 1182” from paragraph 2.21B(1)(a) of Division 2.5 of Part 2 of the Principal Regulations and inserts the words “, form 1182, form 48ME, form 1419 or form 1419 (Internet)”.

Regulation 2.21B sets out circumstances in which the Minister may grant a bridging visa to an applicant for a substantive visa, without the need for a separate application for the bridging visa.

The amendment allows the grant of a bridging visa without a separate application where the applicant made a valid application for a substantive visa in Australia on form 1419, form 1419 (Internet), or form 48ME. These forms are the application forms for the new Subclass 600 (Visitor) visa and the new Subclass 602 (Medical Treatment) visa.

Item 22 – Paragraph 2.21B(1)(b)

This item inserts a reference to the new Subclass 600 (Visitor) visa after the reference to a Tourist (Class TR) visa in paragraph 2.21B(1)(b) of Division 2.5 of Part 2 of the Principal Regulations.

Regulation 2.21B sets out circumstances in which the Minister may grant certain bridging visas to an applicant for a substantive visa, without the need for an application for the bridging visa. Paragraph 2.21B(1)(b) provides for the grant of a bridging without an application to a person in Australia who has made a valid oral application for a Tourist (Class TR) visa. The amendment provides, in addition, that a bridging visa may also be granted without an application to a person in Australia who made a valid oral application for the new Subclass 600 (Visitor) visa.

Item 23 – Subregulation 2.25A(2)

This item repeals subregulation 2.25A(2) and substitutes a new subregulation 2.25A(2) in Division 2.5A of Part 2 of the Principal Regulations.

Regulation 2.25A sets out the circumstances in which the Minister must seek the opinion of a Medical Officer of the Commonwealth on whether certain criteria relating to health are satisfied. Subregulation 2.25A(2) requires the Minister to seek the opinion of a Medical Officer of the Commonwealth on whether an applicant satisfies certain criteria relating to health in respect of an application for a Subclass 675 Medical Treatment (Short Stay) visa

and a Subclass 685 Medical Treatment (Long Stay) visa if there is any information known to the Department of Immigration and Citizenship to the effect that the applicant may not be able to meet those criteria. Subclass 675 and Subclass 685 are repealed by this Regulation and replaced by the new Subclass 602 (Medical Treatment) visa.

The substituted subregulation refers to certain health criteria in the new Subclass 602 (Medical Treatment) visa, and requires the Minister to seek the opinion of a Medical Officer of the Commonwealth if there is any information known to the Department of Immigration and Citizenship to the effect that the applicant may not be able to meet those criteria.

Items 24, 26, 27, 30, 32 and 33 – Subparagraph 2.43(1)(e)(i); Subparagraph 2.43(1)(e)(iii); Subparagraph 2.43(1)(e)(iv); Subparagraph 2.43(1)(f)(i); Sub-subparagraph 2.43(1)(f)(iii)(A); and Subparagraph 2.43(1)(f)(iv)

These items make a technical amendment, to reflect current drafting conventions, by omitting “under the age of 18 years” and inserting “under 18”.

Item 25 – Subparagraph 2.43(1)(e)(ii)

This item repeals subparagraph 2.43(1)(e)(ii) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(e) provides for cancellation of specified visitor visas if the visa holder is under 18 and the law of the visa holder’s home country did not permit the removal of the visa holder, and a person who could lawfully determine where the visa holder was to live did not consent to the grant of the visa; or if the grant of the visa was inconsistent with an Australian child order in force in relation to the visa holder.

Subparagraph 2.43(1)(e)(ii) is repealed because it is a redundant reference to holders of Long Stay (Visitor) (Class TN) visas. There are no remaining holders of that visa, which was repealed with effect from 1 July 2005.

Item 28 – After subparagraph 2.43(1)(e)(iv)

This item inserts new subparagraph 2.43(1)(e)(iva) in paragraph 2.43(1)(e) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 sets out the grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(e) provides for cancellation of specified visitor visas if the visa holder is under 18 and the law of the visa holder’s home country did not permit the removal of the visa holder, and a person who could lawfully determine where the visa holder was to live did not consent to the grant of the visa; or if the grant of the visa was inconsistent with an Australian child order in force in relation to the visa holder.

Subparagraph 2.43(1)(e)(iva) refers to “the holder of a Subclass 600 (Visitor) visa in the Tourist stream, that was applied for using form 1419 (Internet), who is under 18”. The amendment is consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation.

Item 29 – After paragraph 2.43(1)(e)

This item inserts new paragraph 2.43(1)(ea) in Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act.

New paragraph 2.43(1)(ea) provides that a Subclass 601 (Electronic Travel Authority) visa could be cancelled if the Minister was satisfied that the visa holder did not have, at the time of the grant of the visa, an intention only to stay in, or visit, Australia temporarily for the tourism or business purposes for which the visa was granted; or has ceased to have that intention.

New paragraph 2.43(1)(ea) is consequential to the creation of the Subclass 601 (Electronic Travel Authority) visa by this Regulation, and reflects the cancellation powers in respect of the Subclass 956 Electronic Travel Authority (Business Entrant – Long Validity) visa, Subclass 976 (Electronic Travel Authority (Visitor)) visa, and Subclass 977 (Electronic Travel Authority (Business Entrant – Short Validity)) visa which are repealed by items 297 to 299 of this Schedule.

Item 31 – Subparagraph 2.43(1)(f)(ii)

This item repeals subparagraph 2.43(1)(f)(ii) in paragraph 2.43(1)(f) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 sets out the grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(f) provides for cancellation of specified visitor visas if the visa holder is under 18, unaccompanied by a parent or guardian, and does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's visit in Australia.

Subparagraph 2.43(1)(f)(ii) is repealed because it is a redundant reference to holders of Long Stay (Visitor) (Class TN) visas. There are no remaining holders of that visa, which was repealed with effect from 1 July 2005.

Item 34 – After subparagraph 2.43(1)(f)(iv)

This item inserts new subparagraph 2.43(1)(f)(v) in paragraph 2.43(1)(f) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(f) provides for cancellation of specified visitor visas if the visa holder is under 18, unaccompanied by a parent or guardian, and does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's visit in Australia.

Subparagraph 2.43(1)(f)(v) refers to "the holder of a Subclass 600 (Visitor) visa in the Tourist stream, that was applied for using form 1419 (Internet), who is under 18 and is not accompanied by his or her guardian". The amendment is consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation.

Item 35 – After subparagraph 2.43(1)(i)(ia)

This item inserts new subparagraph 2.43(1)(i)(ib) in paragraph 2.43(1)(i) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(i) prescribes in respect of cancellation of a Subclass 456 (Business (Short Stay)) visa, Subclass 459 (Sponsored Business Visitor (Short Stay)) visa, Subclass 956 Electronic Travel Authority (Business Entrant – Long Validity) visa, and Subclass 977 (Electronic Travel Authority (Business Entrant – Short Validity)) visa, the grounds that the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for business purposes.

New subparagraph 2.43(1)(i)(ib) refers to the Subclass 600 (Visitor) visa in the Business Visitor stream as an additional visa which is subject to these prescribed grounds for cancellation. The subparagraph is consequential to the creation of the Subclass 600 (Visitor) visa by this Regulation to replace the previous Subclass 456, Subclass 459, Subclass 956, and Subclass 977 visas.

Item 36 – Subparagraphs 2.43(1)(ia)(i) to (ic)

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

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(ia) prescribes the grounds set out in subregulation 2.43(1A) as grounds for the cancellation of a number of visas listed in paragraph 2.43(1)(ia). The grounds are that, despite the grant of the visa, the visa holder did not have at the time of grant, 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 the visa holder was nominated.

New subparagraphs 2.43(1)(ia)(i) to (id) include a reference to the new Subclass 400 (Temporary Work (Short Stay Activity)) visa created by this Regulation, as a visa which is subject to these prescribed grounds for cancellation, in addition to the references to Subclass 401, Subclass 402, Subclass 403 and Subclass 411 visas.

Item 37 – Subparagraphs 2.43(1)(j)(i) to (iv)

This item repeals subparagraphs 2.43(1)(j)(i) to (iv) and substitutes new subparagraphs 2.43(1)(j)(i) to (iii) in paragraph 2.43(1)(j) of Division 2.9 of Part 2 of the Principal Regulations.

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(j) applies to the Subclass 676 (Tourist) visa, the Subclass 676 (Tourist (Short Stay)) visa, the Subclass 679 (Sponsored Family Visitor) visa, and the Subclass 686 (Tourist (Long Stay)) visa. The prescribed grounds for cancellation of these visas are that the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia as a

visitor temporarily for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the visa holder, or for another purpose other than a purpose related to business or medical treatment.

The substituted subparagraphs omit redundant references to the Subclass 676 (Tourist (Short Stay)) visa and the Subclass 686 (Tourist (Long Stay)) visa, which were omitted from the Principal Regulations with effect from 1 July 2005.

The substituted subparagraphs also insert a reference to “a Subclass 600 (Visitor) visa that is not in the Business Visitor stream”. The purpose of this amendment is to apply the cancellation ground at paragraph 2.43(1)(j) to the three streams of the new Subclass 600 (Visitor) visa, to be created by this Regulation, that are granted for the purpose covered by this cancellation ground: the Tourist stream, the Sponsored Family stream, and the Approved Destination Status stream.

#### Item 38 – Subparagraphs 2.43(1)(le)(i) to (iii)

This item repeals subparagraphs 2.43(1)(le)(i), (ii), and (iii) of paragraph 2.43(1)(le) in Division 2.9 of Part 1 of the Principal Regulations, and substitutes new subparagraphs 2.43(1)(le)(i), (ii), (iii), and (iv).

Regulation 2.43 prescribes grounds for cancellation of visas for the purposes of paragraph 116(1)(g) of the Act. Paragraph 2.43(1)(le) prescribes as grounds for the cancellation of Subclass 427 (Domestic Worker (Temporary) – Executive), Subclass 428 (Religious Worker) visa, and Subclass 457 (Temporary Work (Skilled)) visas, the grounds that the sponsor of the visa holder has paid the return travel costs of the holder in accordance with the sponsorship obligation.

Subparagraphs 2.43(1)(le)(i) to (iv) include a reference to the Subclass 401 (Temporary Work (Long Stay Activity)) visa, in addition to the references to Subclass 427, Subclass 428, and Subclass 457 visas. A long stay activity sponsor of an applicant for a Subclass 401 visa may be under the obligation to pay the return travel costs of the holder. The intention is that the visa should be liable to cancellation where the costs have been paid.

#### Items 39 to 41 – Subparagraph 2.85(1)(a)(iii); Subparagraph 2.85(1)(a)(iv); and Subparagraph 2.85(4)(a)(iii)

This item amends subparagraph 2.85(1)(a)(iii), subparagraph 2.85(1)(a)(iv) and subparagraph 2.85(4)(a)(iii) in Division 2.19 of Part 2A of the Principal Regulations by omitting the references to the Research stream of a Subclass 402 (Training and Research) visa.

Regulation 2.85 in Division 2.19 of Part 2A of the Principal Regulations sets out the circumstances in which sponsors have an obligation to secure an offer of a reasonable standard of accommodation for the sponsored person.

The amendment removes the obligation to secure an offer of a reasonable standard of accommodation from approved sponsors of primary sponsored persons who hold a Subclass 402 (Training and Research) visa in the Research stream, or whose last substantive visa was a Subclass 402 (Training and Research) visa in the Research stream. The amendments correct the operation of the Principal Regulations as it is not intended to apply this obligation in respect of holders of Subclass 402 visas in the Research stream.

Item 42 – Paragraph 3.03(3)(e)

This item inserts the words “, as in force before 23 March 2013,” before the words “of Schedule 1” in paragraph 3.03(3)(e) of Division 3.1 of Part 3 of the Principal Regulations.

Regulation 3.03 sets out the evidence of identity and visas which must be provided for the purposes of section 166 of the Act by a person entering Australia. Paragraph 3.03(3)(e) refers to persons holding a Temporary Business Entry (Class UC) visa on the basis of a deemed application under regulation 2.07AA.

The amendment to paragraph 3.03(3)(e) reflects the amendments to regulation 2.07AA by this Regulation which have the effect that, from 23 March 2013, a deemed application under regulation 2.07AA is an application for the new Subclass 600 (Visitor) visa instead of a Temporary Business Entry (Class UC) visa.

Item 43 – After paragraph 3.03(3)(e)

This item inserts new paragraph 3.03(3)(ea) in Division 3.1 of Part 3 of the Principal Regulations.

Regulation 3.03 sets out the evidence of identity and visas which must be provided for the purposes of section 166 of the Act by a person entering Australia.

New paragraph 3.03(3)(ea) provides that a holder of a Subclass 600 (Visitor) visa, granted on the basis of a deemed application under regulation 2.07AA, must present specified evidence of the person’s identity and provide a completed passenger card.

Item 44 – After paragraph 3.03(3)(f)

This item inserts new paragraph 3.03(3)(fa) in Division 3.1 of Part 3 of the Principal Regulations.

Regulation 3.03 sets out the evidence of visas and identity which must be provided for the purposes of section 166 of the Act by a person entering Australia.

New paragraph 3.03(3)(fa) provides that a holder of a Subclass 600 (Visitor) visa, granted on the basis of an internet application, must present specified evidence of the person’s identity and provide a completed passenger card.

Item 45 – Subregulation 4.23(1)

This item omits the words “a Short Stay Sponsored (Visitor) (Class UL) visa (also known as a Sponsored (Visitor) (Class UL) visa), a Long Stay (Visitor) (Class TN) visa, a Short Stay (Visitor) (Class TR) visa or a Tourist (Class TR) visa)” from subregulation 4.23(1) in Part 4 of the Principal Regulations, and inserts the words “a Sponsored (Visitor) (Class UL) visa, a Tourist (Class TR) visa or a Subclass 600 (Visitor) visa”.

Subregulation 4.23 requires the MRT to conduct an expedited review of visa refusal decisions in relation to specified visa subclasses where the visa applicant is applying for the visa to visit close family members in Australia.

The amendment omits redundant references to repealed visas, and inserts a reference to the new Subclass 600 (Visitor) visa.

Item 46 – Paragraph 5.19(2)(a)

This item inserts the word “(Internet)” after “form 1395” in paragraph 5.19(2)(a) in Division 5.3 of Part 5 of the Principal Regulations, to clarify that the reference to form 1395 is a reference to an online form.

Paragraph 5.19(2)(a) provides that an application for approval of a nomination of a position in Australia must be made in accordance with approved form 1395. Form 1395 is an online form that is lodged electronically via the website of the Department of Immigration and Citizenship.

Items 47 to 49 – Paragraph 5.19(3)(a); Subparagraph 5.19(3)(b)(i); and Paragraph 5.19(3)(c)

These items omit the words “Subclass 457 (Business (Long Stay)) visa” and substitute “Subclass 457 (Temporary Work (Skilled)) visa” in relevant provisions in subregulation 5.19(3) in Division 5.3 of Part 5 of the Principal Regulations.

The amendments are consequential to the renaming of the Subclass 457 visa by the *Migration Legislation Amendment Regulation 2012 (No. 4)* which commenced on 24 November 2012.

Item 50 – Subregulation 5.38(1)

This item omits the words “a Sponsored (Visitor) (Class UL) visa” in subregulation 5.38(1) of Division 5.7 of Part 5 of the Principal Regulations, and substitutes the words “a Subclass 600 (Visitor) visa”.

Regulation 5.38 sets out the sponsorship fee in relation to temporary visas for which sponsorship is a requirement. The regulation specifies that the Sponsored (Visitor) (Class UL) visa is not subject to the sponsorship fee.

The amendment omits the reference to the Sponsored (Visitor) (Class UL) visa, which is repealed by item 58 of this Schedule, and inserts a reference to the new Subclass 600 (Visitor) visa which is created by this Regulation. The purpose of the amendment is to continue the exemption from the sponsorship fee for applicants who are seeking to visit close family members.

Items 51 to 57 – Sub-subparagraph 1130(2)(a)(ia)(B); Sub-sub-subparagraph 1130(2)(b)(ia)(A)(II); Sub-sub-subparagraph 1130(2)(b)(ia)(B)(II); Subparagraph 1130(3)(a)(ii); Sub-subparagraph 1130A(2)(a)(ia)(B); Sub-sub-subparagraph 1130A(2)(b)(ia)(A)(II); and Sub-sub-subparagraph 1130A(2)(b)(ia)(B)(II) of Schedule 1

These items omit the words “a substituted Subclass 676 visa” and insert “a substituted Subclass 600 visa” in relevant provisions of Item 1130 and Item 1130A of Part 1 of Schedule 1 to the Principal Regulations.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the definition of “substituted Subclass 676 visa”.

Item 58 – Item 1217A of Schedule 1

This item repeals item 1217A of Part 2 of Schedule 1 to the Principal Regulations.

Item 1217A sets out the requirements for making a valid application for a Sponsored (Visitor) (Class UL) visa. Class UL contains the Subclass 679 (Sponsored Family Visitor) visa and the Subclass 459 (Sponsored Business Visitor – Short Stay) visa.

The Subclass 679 (Sponsored Family Visitor) visa is replaced by the Sponsored Family stream in the new Subclass 600 (Visitor) visa which is inserted by item 3 of Schedule 2 to this Regulation. Subclass 459 (Sponsored Business Visitor – Short Stay) is replaced by the Business Visitor stream in the new Subclass 600 (Visitor) visa which is inserted by item 3 of Schedule 2 to this Regulation.

Item 59 – Subitem 1218(1) of Schedule 1

This item repeals subitem 1218(1) of Part 2 of Schedule 1 to the Principal Regulations and substitutes new subitem 1218(1).

Subitem 1218(1) sets out the form that an applicant must use to apply for a Subclass 676 (Tourist) visa.

The effect of the amendment is to provide that a Subclass 676 (Tourist) visa can only be applied for using an internet form. The amendment precludes applications for this visa by any method other than through the internet.

The amendment provides a different internet form depending on whether the applicant is in or outside Australia.

The amendment also provides that an application for this visa can only be made by applicants who fall in a class of persons specified by the Minister in an instrument in writing.

The purpose of the amendment is to provide a contingency in the event that internet applications for the new Subclass 600 (Visitor) visa (which effectively replaces the Subclass 676 (Tourist) visa) are not operational. Enabling internet applications for a Subclass 676 (Tourist) visa, if the Minister specifies a class of persons in an instrument, ensures that visitors can continue to apply online.

Item 60 – Subitem 1218(3) of Schedule 1

This item repeals subitem 1218(3) of Part 2 of Schedule 1 to the Principal Regulations and substitutes new subitem 1218(3).

The amendment removes references to applications for a Subclass 676 (Tourist) visa lodged without using the internet as a consequence of the amendment made by item 59 which provides that only internet applications may be made for a Subclass 676 visa.

The amendment also removes the limitation on who may apply using the internet as the amendment made by item 59 of this Schedule sets out that anyone in a class of persons specified by the Minister in an instrument in writing may apply using the internet.



The amendment retains the facility to allow an oral application in certain circumstances and retains the facility for persons sharing a passport to make a combined application.

Item 61 – Subitem 1222(5) of Schedule 1 (definition of *relevant visa*)

This item repeals the definition of *relevant visa* from subitem 1222(5) of Part 2 of Schedule 1 to the Principal Regulations.

This definition and the associated list of qualifying visas which follows it are not used in item 1222 and are therefore redundant.

Items 62 to 68 – Paragraph 1223A(1)(a); Paragraph 1223A(1)(c); Subparagraph 1223A(2)(a)(i); Subparagraphs 1223A(2)(a)(vii) to (ix); Paragraph 1223A(3)(a); Paragraph 1223A(3)(b); and Paragraphs 1223A(3)(e) and (f) of Schedule 1

This item repeals paragraph 1223A(1)(a), paragraph 1223A(1)(c), subparagraph 1223A(2)(a)(i), subparagraphs 1223A(2)(a)(vii) to (ix), paragraph 1223A(3)(a), paragraph 1223A(3)(b), and paragraphs 1223A(3)(e) and (f) of Part 2 of Schedule 1 to the Principal Regulations.

Item 1223A sets out requirements for making a valid application for a Temporary Business Entry (Class UC) visa. Class UC contains both the Subclass 456 (Business (Short Stay)) visa and the Subclass 457 (Business (Long Stay)) visa.

Subclass 456 is repealed by item 93 of this Schedule and replaced by the Business Visitor Stream of the new Subclass 600 (Visitor) visa which is created by item 3 of Schedule 2 to this Regulation. The repealed provisions all relate to Subclass 456 and their repeal is consequential to the repeal of that subclass.

Item 69 – Subitem 1223A(4) of Schedule 1

This item omits the reference to Subclass 456 (Business (Short Stay)) visa from subitem 1223A(4).

Subitem 1223A(4) lists the subclasses of the Temporary Business Entry (Class UC) visa.

This amendment is consequential to the repeal of the Subclass 456 visa by item 93 of this Schedule.

Item 70 – Paragraph 1234(2)(a) of Schedule 1 (items 1 and 2)

This item repeals items 1 and 2 of paragraph 1234(2)(a) of Part 2 of Schedule 1 to the Principal Regulations, and substitutes new items 1 and 2.

Item 1 provides that there is a nil visa application charge (VAC) if 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 who is expected to be recommended by the Foreign Minister for the grant of a visa.

Item 2 provides that there is a nil VAC if the applicant is someone who 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.

The new items 1 and 2 provide that there is also a nil VAC for the members of the family unit of a person to whom items 1 and 2 previously applied.

Item 71 – Sub-subparagraph 010.211(4)(a)(i)(B) of Schedule 2

This item inserts a reference to the new condition 8115 into sub-subparagraph 010.211(4)(a)(i)(B) of Part 010 of Schedule 2 to the Principal Regulations.

Sub-subparagraph 010.211(4)(a)(i)(B) refers to the conditions which may be attached to a Bridging Visa A (Class WA) visa or Bridging Visa B (Class WB) visa held by an applicant who is seeking to satisfy subclause 010.211(4) for the grant of a further Bridging Visa A.

Condition 8115, which sets out the new “business visitor activity” condition, is inserted by item 4 of Schedule 2 to this Regulation as new clause 8115 of Schedule 8 to the Principal Regulations. This condition prohibits work other than engagement in a “business visitor activity”.

The purpose of this amendment is to ensure that an applicant holding a Bridging visa which had been granted subject to the condition 8115 may be granted a further Bridging Visa A visa, which may be subject to different conditions, if the Minister is satisfied that the applicant has a compelling need to work.

Items 72 and 73 – Subclause 010.611(4); and Subclause 020.611(5) of Schedule 2

This item inserts a reference to new condition 8115 in the list of conditions in subclause 010.611(4) and subclause 020.611(5) of Part 010 and Part 020 of Schedule 2 to the Principal Regulations.

Subclause 010.611(4) and subclause 020.611(5) have the effect that the listed visa conditions, applicable to a substantive visa held by the applicant, are carried forward to a Bridging Visa A or Bridging Visa B, respectively, granted in connection with an application for a further substantive visa.

The amendment ensures that if an applicant for a visa holds, or in certain circumstances last held, a visa subject to condition 8115, the new Bridging Visa will also be subject to that condition.

Items 74 to 82 – Sub-sub-subparagraph 143.211(1)(b)(i)(B)(II); Sub-subparagraph 143.212(4)(a)(ii)(B); Paragraph 143.213(b); Clause 143.225 (table item 1); Clause 143.225 (table item 2); Paragraph 143.229(b) (table item 1); Paragraph 143.229(b) (table item 2); Clause 143.230 (table item 1); and Clause 143.230 (table item 2) of Schedule 2

These items omits the words “a substituted Subclass 676 visa” and inserts “a substituted Subclass 600 visa” in various provisions in Division 143.2 of Part 143 of Schedule 2 to the Principal Regulations.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the definition of “substituted Subclass 676 visa”.

Item 83 – Sub-subparagraph 143.311(b)(ii)(B) of Schedule 2

This item repeals sub-subparagraph 143.311(b)(ii)(B) which refers to “a substituted Subclass 676 visa” and substitutes new sub-subparagraph 143.311(b)(ii)(B) in Part 143 of Schedule 2 to the Principal Regulations which refers to “a substituted Subclass 600 visa”.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the definition of “substituted Subclass 676 visa”.

Items 84 and 85 – Clause 143.324 (table item 1); and Clause 143.324 (table item 2) of Schedule 2

These item omits the words “a substituted Subclass 676 visa” and insert “a substituted Subclass 600 visa” in clause 143.324 of Part 143 of Schedule 2 to the Principal Regulations.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the definition of “substituted Subclass 676 visa”.

Item 86 – Paragraph 143.411(b) of Schedule 2

This item repeals paragraph 143.411(b) in Part 143 of Schedule 2 to the Principal Regulations, which refers to “a substituted Subclass 676 visa”, and substitutes new paragraph 143.411(b) which refers to “a substituted Subclass 600 visa”.

The amendment is consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the definition of “substituted Subclass 676 visa”.

Item 87 – Paragraph 143.411(c) of Schedule 2

This item omits the words “a substituted Subclass 676 visa” and inserts “a substituted Subclass 600 visa” in paragraph 143.411(c) of Part 143 of Schedule 2 to the Principal Regulations.

The amendment is consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the previous definition of “substituted Subclass 676 visa”.

Items 88 and 89 – Subparagraph 155.212(2)(b)(i); and Sub-subparagraph 157.212(2)(a)(ii)(A) of Schedule 2

These items insert a reference to the new Subclass 601 (Electronic Travel Authority) visa in subparagraph 155.212(2)(b)(i) and sub-subparagraph 157.212(2)(a)(ii)(A) in Part 155 and Part 157 of Schedule 2 to the Principal Regulations, respectively.

The amendments have the effect that holding a Subclass 601 (Electronic Travel Authority) visa, concurrently with holding a permanent visa, does not affect eligibility for a Subclass 155 (Five Year Resident Return) visa or a Subclass 157 (Three Month Resident Return) visa, respectively.

Items 90 and 91 – Paragraph 186.223(1)(b); and Paragraph 187.223(1)(b) of Schedule 2

These items omit the words “Subclass 457 (Business (Long Stay)) visa” and insert “Subclass 457 (Temporary Work (Skilled)) visa” in paragraph 186.223(1)(b) in Part 186 of Schedule 2 to the Principal Regulations and paragraph 187.223(1)(b) in Part 187 of Schedule 2 to the Principal Regulations.

The amendments are consequential to the renaming of the Subclass 457 visa by the *Migration Legislation Amendment Regulation 2012 (No. 4)* which commenced on 24 November 2012.

Item 92 – Clause 401.222 of Schedule 2

This item omits the words “An exchange agreement” and insert “The exchange agreement” in clause 401.222 in Part 401 of Schedule 2 to the Principal Regulations.

This is a technical amendment to align clause 401.222 with clause 411.222. The effect of this item is to ensure that the agreement referred to in clause 401.222 is the agreement identified in the nomination referred to in clause 401.221.

Item 93 – Part 456 of Schedule 2

This item repeals Part 456 of Schedule 2 to the Principal Regulations.

Part 456 provides the criteria for the Subclass 456 (Business – Short Stay) visa. The amendment repeals the Subclass 456 visa, which is replaced by the Subclass 600 (Visitor) in the Business Visitor stream, created by item 3 of Schedule 2 to this Regulation.

Applicants who previously may have applied for a Subclass 456 visa are required from 23 March 2013 to apply for a Subclass 600 visa in the Business Visitor stream. The transitional provisions in Schedule 8 to this Regulation ensure that an application for a Subclass 456 visa made before 23 March 2013 will be decided in accordance with the Subclass 456 visa criteria.

Item 94 – Subclause 457.223(1) of Schedule 2

This item omits the words “subclause (2), (4) or (8)” and insert “subclause (2) or (4)” in subclause 457.223(1) of Part 457 of Schedule 2 to the Principal Regulations.

This amendment removes the reference to subclause 457.223(8) from subclause 457.223(1) and is consequential to item 95 of this Schedule.

Item 95 – Subclause 457.223(8) of Schedule 2 (including the subheading)

This item repeals subclause 457.223(8) of Part 457 of Schedule 2 to the Principal Regulations.

Subclause 457.223(8) deals with the cohort of applicants under the heading of “Service Sellers”. The amendment removes this cohort from the Subclass 457 (Business (Long Stay)) visa. These applicants are now catered for by the Business Visitor Stream in the new Subclass 600 (Visitor) visa, which is created by item 3 of Schedule 2 to this Regulation.

#### Item 96 – Clause 457.223B of Schedule 2

This item repeals clause 457.223B and substitutes new clause 457.223B in Part 457 of Schedule 2 to the Principal Regulations with a new criterion which requires that the Minister is satisfied that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

This amendment removes a reference to subclause 457.223(8) from clause 457.223B, and is consequential to the repeal of subclause 457.223(8) by item 95 of this Schedule.

#### Item 97 – Clause 457.324D of Schedule 2

This item omits the words “subclause 457.223(8)” and inserts the words “subclause 457.223(8), as in force immediately before 23 March 2013” in clause 457.324D of Part 457 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the repeal of subclause 457.223(8) in item 95 of this Schedule. Reference to the provision is retained so that close family members applying after 23 March 2013 continue to be exempt from health insurance requirements.

#### Item 98 – Subclause 457.611(1) of Schedule 2

This item repeals subclause 457.611(1) in Part 457 of Schedule 2 to the Principal Regulations, and substitutes new subclause 457.611(1).

The new subclause 457.611(1) provides that condition 8501 applies to an applicant, other than an applicant who seeks to satisfy the secondary criteria on the basis of being a member of the family unit of the primary applicant who has met the requirements of subclause 457.223(8) as in force immediately before 23 March 2013, or subclause 457.223(9) as in force immediately before 24 November 2012.

This amendment is consequential to the repeal of subclause 457.223(8) in item 95 of this Schedule.

#### Item 99 – Part 459 of Schedule 2

This item repeals Part 459 of Schedule 2 to the Principal Regulations.

Part 459 provides the criteria for the Subclass 459 (Sponsored Business Visitor – Short Stay) visa. The amendment repeals the Subclass 459 visa, which is replaced by the new Subclass 600 (Visitor) visa in the Business Visitor stream.

Applicants who previously may have applied for a Subclass 459 visa are required from 23 March 2013 to apply for a Subclass 600 visa in the Business Visitor stream. The effect of the transitional provisions in Schedule 8 to this Regulation ensures that an application for a Subclass 459 visa made before 23 March 2013 continues to be decided in accordance with the Subclass 459 visa criteria.

Items 100 to 117 – Paragraph 570.211(2)(a); Subparagraph 570.211(2)(a)(ix); Subparagraph 570.211(2)(a)(xii); Subparagraphs 570.211(2)(a)(xva) and (xvb); After subparagraph 570.211(2)(a)(xviii); Subparagraph 570.211(2)(a)(xx); Subparagraph 570.227(c)(i); Sub-subparagraph 570.227(c)(i)(I); Sub-subparagraph 570.227(c)(i)(L); Sub-subparagraphs 570.227(c)(i)(NA) and (NB); After sub-subparagraph 570.227(c)(i)(Q); Sub-subparagraph 570.227(c)(i)(S); Paragraph 570.312(2)(a); Subparagraph 570.312(2)(a)(ix); Subparagraph 570.312(2)(a)(xii); Subparagraphs 570.312(2)(a)(xva) and (xvb); After subparagraph 570.312(2)(a)(xviii); and Subparagraph 570.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 570 of Schedule 2 of the Principal Regulations.

Part 570 sets out the criteria which must be satisfied by an applicant for a Subclass 570 (Independent ELICOS Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 570 expand the list of visas which may be held by an applicant for a Subclass 570 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments also repeal redundant references to visa subclasses which no longer exist.

Items 118 to 135 – Paragraph 571.211(2)(a); Subparagraph 571.211(2)(a)(ix); Subparagraph 571.211(2)(a)(xii); Subparagraphs 571.211(2)(a)(xva) and (xvb); After subparagraph 571.211(2)(a)(xviii); Subparagraph 571.211(2)(a)(xx); Subparagraph 571.227(c)(i); Sub-subparagraph 571.227(c)(i)(I); Sub-subparagraph 571.227(c)(i)(L); Sub-subparagraphs 571.227(c)(i)(NA) and (NB); After sub-subparagraph 571.227(c)(i)(Q); Sub-subparagraph 571.227(c)(i)(S); Paragraph 571.312(2)(a); Subparagraph 571.312(2)(a)(ix); Subparagraph 571.312(2)(a)(xii); Subparagraphs 571.312(2)(a)(xva) and (xvb); After subparagraph 571.312(2)(a)(xviii); and Subparagraph 571.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 571 of Schedule 2 of the Principal Regulations.

Part 571 sets out the criteria which must be satisfied by an applicant for a Subclass 571 (Schools Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 571 expand the list of visas which may be held by an applicant for a Subclass 571 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Items 136 to 153 – Paragraph 572.211(2)(a); Subparagraph 572.211(2)(a)(ix); Subparagraph 572.211(2)(a)(xii); Subparagraphs 572.211(2)(a)(xva) and (xvb); After subparagraph 572.211(2)(a)(xviii); Subparagraph 572.211(2)(a)(xx); Subparagraph 572.227(c)(i); Sub-subparagraph 572.227(c)(i)(I); Sub-subparagraph 572.227(c)(i)(L); Sub-subparagraphs 572.227(c)(i)(NA) and (NB); After sub-subparagraph 572.227(c)(i)(Q); Sub-subparagraph 572.227(c)(i)(S); Paragraph 572.312(2)(a); Subparagraph 572.312(2)(a)(ix); Subparagraph 572.312(2)(a)(xii); Subparagraphs 572.312(2)(a)(xva) and (xvb); After subparagraph 572.312(2)(a)(xviii); and Subparagraph 572.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 572 of Schedule 2 of the Principal Regulations.

Part 572 sets out the criteria which must be satisfied by an applicant for a Subclass 572 (Vocational Education and Training Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 572 expand the list of visas which may be held by an applicant for a Subclass 572 visa, who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Items 154 to 171 – Paragraph 573.211(2)(a); Subparagraph 573.211(2)(a)(ix); Subparagraph 573.211(2)(a)(xii); Subparagraphs 573.211(2)(a)(xva) and (xvb); After subparagraph 573.211(2)(a)(xviii); Subparagraph 573.211(2)(a)(xx); Subparagraph 573.227(c)(i); Sub-subparagraph 573.227(c)(i)(I); Sub-subparagraph 573.227(c)(i)(L); Sub-subparagraphs 573.227(c)(i)(NA) and (NB); After sub-subparagraph 573.227(c)(i)(Q); Sub-subparagraph 573.227(c)(i)(S); Paragraph 573.312(2)(a); Subparagraph 573.312(2)(a)(ix); Subparagraph 573.312(2)(a)(xii); Subparagraphs 573.312(2)(a)(xva) and (xvb); After subparagraph 573.312(2)(a)(xviii); and Subparagraph 573.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 573 of Schedule 2 of the Principal Regulations.

Part 573 sets out the criteria which must be satisfied by an applicant for a Subclass 573 (Higher Education Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 573 expand the list of visas which may be held by an applicant for a Subclass 573 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Items 172 to 189 – Paragraph 574.211(2)(a); Subparagraph 574.211(2)(a)(ix); Subparagraph 574.211(2)(a)(xii); Subparagraphs 574.211(2)(a)(xva) and (xvb); After subparagraph 574.211(2)(a)(xviii); Subparagraph 574.211(2)(a)(xx); Subparagraph 574.227(c)(i); Sub-subparagraph 574.227(c)(i)(I); Sub-subparagraph 574.227(c)(i)(L); Sub-subparagraphs 574.227(c)(i)(NA) and (NB); After sub-subparagraph 574.227(c)(i)(Q); Sub-subparagraph 574.227(c)(i)(S); Paragraph 574.312(2)(a); Subparagraph 574.312(2)(a)(ix); Subparagraph 574.312(2)(a)(xii); Subparagraphs 574.312(2)(a)(xva) and (xvb); After subparagraph 574.312(2)(a)(xviii); and Subparagraph 574.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 574 of Schedule 2 of the Principal Regulations.

Part 574 sets out the criteria which must be satisfied by an applicant for a Subclass 574 (Postgraduate Research Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 574 expand the list of visas which may be held by an applicant for a Subclass 574 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Items 190 to 207 – Paragraph 575.211(2)(a); Subparagraph 575.211(2)(a)(ix); Subparagraph 575.211(2)(a)(xii); Subparagraphs 575.211(2)(a)(xva) and (xvb); After subparagraph 575.211(2)(a)(xviii); Subparagraph 575.211(2)(a)(xx); Subparagraph 575.227(c)(i); Sub-subparagraph 575.227(c)(i)(I); Sub-subparagraph 575.227(c)(i)(L); Sub-subparagraphs 575.227(c)(i)(NA) and (NB); After sub-subparagraph 575.227(c)(i)(Q); Sub-subparagraph 575.227(c)(i)(S); Paragraph 575.312(2)(a); Subparagraph 575.312(2)(a)(ix); Subparagraph 575.312(2)(a)(xii); Subparagraphs 575.312(2)(a)(xva) and (xvb); After subparagraph 575.312(2)(a)(xviii); and Subparagraph 575.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 575 of Schedule 2 of the Principal Regulations.

Part 575 sets out the criteria which must be satisfied by an applicant for a Subclass 575 (Non-Award Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 575 expand the list of visas which may be held by an applicant for a Subclass 575 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.



Items 208 to 219 – Paragraph 576.211(2)(a); Subparagraph 576.211(2)(a)(ix); Subparagraph 576.211(2)(a)(xii); Subparagraphs 576.211(2)(a)(xva) and (xvb); After subparagraph 576.211(2)(a)(xviii); Subparagraph 576.211(2)(a)(xx); Paragraph 576.312(2)(a); Subparagraph 576.312(2)(a)(ix); Subparagraph 576.312(2)(a)(xii); Subparagraphs 576.312(2)(a)(xva) and (xvb); After subparagraph 576.312(2)(a)(xviii); and Subparagraph 576.312(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 576 of Schedule 2 of the Principal Regulations.

Part 576 sets out the criteria which must be satisfied by an applicant for a Subclass 576 (AusAID or Defence Sector) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 576 expand the list of visas which may be held by an applicant for a Subclass 576 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Items 220 to 237 – Paragraph 580.211(2)(a); Subparagraph 580.211(2)(a)(ix); Subparagraph 580.211(2)(a)(xii); Subparagraphs 580.211(2)(a)(xva) and (xvb); After subparagraph 580.211(2)(a)(xviii); Subparagraph 580.211(2)(a)(xx); Subparagraph 580.227(c)(i); Sub-subparagraph 580.227(c)(i)(I); Sub-subparagraph 580.227(c)(i)(L); Sub-subparagraphs 580.227(c)(i)(NA) and (NB); After sub-subparagraph 580.227(c)(i)(Q); Sub-subparagraph 580.227(c)(i)(S); Paragraph 580.311(2)(a); Subparagraph 580.311(2)(a)(ix); Subparagraph 580.311(2)(a)(xii); Subparagraphs 580.311(2)(a)(xva) and (xvb); After subparagraph 580.311(2)(a)(xviii); and Subparagraph 580.311(2)(a)(xx) of Schedule 2

These items make consequential amendments to the visa criteria in Part 580 of Schedule 2 of the Principal Regulations.

Part 580 sets out the criteria which must be satisfied by an applicant for a Subclass 580 (Student Guardian) visa, which is one of the eight student visa subclasses in Student (Temporary) (Class TU).

The amendments to Part 580 expand the list of visas which may be held by an applicant for a Subclass 580 visa who is located in Australia, to include the new Subclass 400 (Temporary Work (Short Stay Activity)) visa, the new Subclass 600 (Visitor) visa, and the Subclass 403 (Temporary Work (International Relations)) visa (other than a visa in the Domestic Worker (Diplomatic or Consular) stream). The amendments repeal redundant references to visa subclasses which no longer exist.

Item 238 – Subclause 580.223(2A) of Schedule 2

This item repeals subclause 580.223(2A) in Part 580 of Schedule 2 to the Principal Regulations, and substitutes new subclause 580.223(2A).

Subclause 580.223(2A) provides that the Minister may waive the requirement under paragraph 580.223(2)(d), that each member of the family unit of the applicant has turned 6, if

either the applicant is a person designated under regulation 2.07AO, or each child under 6 would be subject to assessment level 1 or 2 if the child were an applicant for a Subclass 571 (Schools Sector) visa; and the Minister is satisfied that there are compelling and compassionate reasons to do so.

The new subclause provides that the Minister may waive the requirement under paragraph 580.223(2)(d), that each member of the family unit of the applicant has turned 6, if each child under 6 would be subject to assessment level 1 or 2 if the child were an applicant for a Subclass 571 (Schools Sector) visa; and the Minister is satisfied that there are compelling and compassionate reasons to do so.

The amendment removes reference to regulation 2.07AO and is consequential to the repeal of regulation 2.07AO at item 12 of this Schedule.

#### Item 239 – Part 675 of Schedule 2

This item repeals Part 675 of Schedule 2 to the Principal Regulations.

Part 675 sets out the criteria for the grant of the Subclass 675 (Medical Treatment (Short Stay)) visa. The amendments replace this visa with the new Subclass 602 (Medical Treatment) visa.

The transitional provisions associated with this amendment ensure that an application for a Subclass 675 visa continues to be decided in accordance with the provisions which exist at the time of application.

#### Items 240 to 243 – Clause 676.214; Paragraph 676.221(2)(d); Clause 676.412; and Clause 676.612 of Schedule 2

These items repeal clause 676.214, paragraph 676.221(2)(d), clause 676.412 and clause 676.612 of Part 676 of Schedule 2 to the Principal Regulations. These provisions previously referred to paragraph 1218(1)(b).

These amendments are consequential to the substitution of paragraph 1218(1)(b) by item 59 of this Schedule.

#### Item 244 – Part 679 of Schedule 2

This item repeals Part 679 of Schedule 2 to the Principal Regulations.

Part 679 provides the criteria for the Subclass 679 (Sponsored Family Visitor) visa. The amendment repeals the Subclass 679 visa, which is replaced by the new Subclass 600 (Visitor) visa in the Sponsored Family stream, created by item 3 of Schedule 2 to this Regulation.

Applicants who previously may have applied for a Subclass 679 visa are required from 23 March 2013 to apply for a Subclass 600 visa in the Sponsored Family stream. The effect of the transitional provisions in Schedule 8 to this Regulation ensures that an application for a Subclass 679 visa made before 23 March 2013 continues to be decided in accordance with the Subclass 679 visa criteria.

Item 245 – Part 685 of Schedule 2

This item repeals Part 685 of Schedule 2 to the Principal Regulations.

Part 685 sets out the criteria for the grant of the Subclass 685 (Medical Treatment (Long Stay)) visa. The amendments replace this visa with the new Subclass 602 (Medical Treatment) visa, created by item 2 of Schedule 4 to this Regulation.

The transitional provisions associated with this amendment ensure that an application for a Subclass 685 visa continues to be decided in accordance with the provisions which exist at the time of application.

Item 246 – Subparagraph 773.213(1)(g)(iii) of Schedule 2

This item repeals subparagraph 773.213(1)(g)(iii) in Part 773 of Schedule 2 to the Principal Regulations, and substitutes new subparagraph 773.213(1)(g)(iii).

The new subparagraph 773.213(1)(g)(iii) omits references in the previous subparagraph to the Tourist (Class TR) visa and the Subclass 456 (Business (Short Stay)) visa, and adds references to new Visitor (Class TV), the new Subclass 600 (Visitor) visa and the new Temporary Work (Short Stay Activity) (Class GA) visa, created by this Regulation.

Following the amendments, the requirements of clause 773.213 for the grant of a Subclass 773 (Border) visa are satisfied if it appears to the Minister, from information in the application, that the applicant would be eligible for the grant of a Visitor (Class TV) visa; or, apart from the requirements of subitem 1236(5) of Schedule 1, eligible for the grant of a Subclass 600 (Visitor) visa; or, apart from the requirements of subitem 1224(3) of Schedule 1 and clause 771.411 of this Schedule, eligible for the grant of a Transit (Temporary) (Class TX) visa; or, apart from the requirements of item 1231 of Schedule 1 and clause 400.411 of this Schedule, eligible for the grant of a Temporary Work (Short Stay Activity) (Class GA) visa.

This item is consequential to the repeal of the Subclass 456 visa at item 93 of this Schedule, the creation of the Subclass 600 (Visitor) visa in item 3 of Schedule 2 to this Regulation and the creation of the Temporary Work (Short Stay Activity) (Class GA) in item 1 of Schedule 1 to this Regulation.

Item 247 – After paragraph 773.213(3)(u) of Schedule 2

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

Subclause 773.213(3) lists the classes of visas referred to in sub-subparagraphs 773.213(1)(d)(i)(C) and 773.213(1)(e)(i)(A) of the Subclass 773 Border visa.

The amendment inserts a reference to the Temporary Work (International Relations) (Class GD) visa and is consequential to the introduction of the Temporary Work (International Relations) (Class GD) visa on 24 November 2012 by the *Migration Legislation Amendment Regulation 2012 (No. 4)*.

Item 248 – At the end of subclause 773.213(3) of Schedule 2

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

Subclause 773.213(3) lists the classes of visas referred to in sub-subparagraphs 773.213(1)(d)(i)(C) and 773.213(1)(e)(i)(A) of the Subclass 773 Border visa.

The amendment is consequential to the renaming of the Cultural/Social (Temporary) (Class TE) visa to the Special Program (Temporary) (Class TE) visa on 24 November 2012 by the *Migration Legislation Amendment Regulation 2012 (No. 4)*.

Items 249 to 260 – Paragraph 804.212(1)(a); Paragraph 804.212(1)(b); Clause 804.214; Paragraph 804.221(b); Clause 804.225 (table item 1); Clause 804.225 (table item 2); Subclause 804.226(1) (table item 1); Subclause 804.226(1) (table item 2); Subclause 804.226(2) (table item 1); Subclause 804.226(2) (table item 2); Clause 804.322 (table item 1); and Clause 804.322 (table item 2) of Schedule 2

These items omit the words “a substituted Subclass 676 visa” and insert “a substituted Subclass 600 visa” in various provisions in clause 804.212, clause 804.214, clause 804.221, clause 804.225, clause 804.226 and clause 804.322 of Part 804 of Schedule 2 to the Principal Regulations.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the previous definition of “substituted Subclass 676 visa”.

Items 261 and 267 – Paragraph 858.211(1)(a); and Subparagraph 858.211(2)(b)(i) of Schedule 2

These items insert the words “or subclasses” after “the following classes” in paragraph 858.211(1)(a) and subparagraph 858.211(2)(b)(i) of Part 858 of Schedule 2 to the Principal Regulations. These provisions list the classes of visa, the holder of which would not satisfy one of the primary criteria for a Subclass 858 (Distinguished Talent) visa. The insertion of the words “or subclasses” are technical amendments to facilitate the amendments at items 265, 266, 271 and 272, which insert references to subclasses in addition to the classes already listed.

Items 262 and 268 – Subparagraph 858.211(1)(a)(ii); and Sub-subparagraph 858.211(2)(b)(i)(B) of Schedule 2

These items repeal subparagraph 858.211(1)(a)(ii) and sub-subparagraph 858.211(2)(b)(i)(B) of Part 858 of Schedule 2 to the Principal Regulations which previously referred to the Long Stay (Visitor) (Class TN) visa in the list of visas which may not be held by an applicant for the Subclass 858 (Distinguished Talent) visa.

The Long Stay (Visitor) (Class TN) visa was repealed on 1 July 2005 by the *Migration Amendment Regulations 2005 (No. 3)*. There are no longer any holders of this visa and the reference is therefore redundant.

Items 263 and 269 – Subparagraph 858.211(1)(a)(iii); and Sub-subparagraph 858.211(2)(b)(i)(C) of Schedule 2

These items repeal subparagraph 858.211(1)(a)(iii) and sub-subparagraph 858.211(2)(b)(i)(C) in Part 858 of Schedule to the Principal Regulations, and substitute new subparagraph 858.211(1)(a)(iii) and sub-subparagraph 858.211(2)(b)(i)(C).

The amendments remove references to the Short Stay Sponsored (Visitor) (Class UL) which was renamed the Sponsored (Visitor) (Class UL) on 2 April 2005 by the *Migration Amendment Regulations 2004 (No. 8)*. The amendment therefore corrects the reference in the relevant provisions.

Items 264 and 270 – Subparagraph 858.211(1)(a)(iv); and Sub-subparagraph 858.211(2)(b)(i)(D) of Schedule 2

These items repeal subparagraph 858.211(1)(a)(iv) and sub-subparagraph 858.211(2)(b)(i)(D) of Part 858 of Schedule 2 to the Principal Regulations.

Both of these provisions previously referred to the Short Stay (Visitor) (Class TR) visa which was repealed on 1 July 2005 by the *Migration Amendment Regulations 2005 (No. 3)*. There are no longer any holders of this visa and the reference is therefore redundant.

Items 265 and 271 – After subparagraph 858.211(1)(a)(iva); and After sub-subparagraph 858.211(2)(b)(i)(DA) of Schedule 2

These items insert a reference to the Temporary Work (Short Stay Activity) (Class GA) visa in subparagraph 858.211(1)(a)(iva) and sub-subparagraph 858.211(2)(b)(i)(DA) of Part 858 of Schedule 2 to the Principal Regulations.

These provisions list the classes of visa, the holder of which would not satisfy one of the primary criteria for a Subclass 858 (Distinguished Talent) visa. The purpose of the amendments is to include the Temporary Work (Short Stay Activity) (Class GA) visa in the list of disqualifying visas so that holders of a Temporary Work (Short Stay Activity) (Class GA) visa are unable to satisfy the criteria for grant of a Subclass 858 (Distinguished Talent) visa.

The amendments are consequential to the introduction of the Temporary Work (Short Stay Activity) (Class GA) visa by item 1 of Schedule 1 to this Regulation.

Items 266 and 272 – Subparagraph 858.211(1)(a)(vii); and Sub-subparagraph 858.211(2)(b)(i)(G) of Schedule 2

These items repeal subparagraph 858.211(1)(a)(vii) and sub-subparagraph 858.211(2)(b)(i)(G) in Part 858 of Schedule 2 to the Principal Regulations and substitutes new subparagraphs 858.211(1)(a)(vii) and (viii), and sub-subparagraphs 858.211(2)(b)(i)(G) and (H).

These provisions list the classes of visa, the holder of which would not satisfy one of the primary criteria for a Subclass 858 (Distinguished Talent) visa. The purpose of these amendments is to include the Subclass 600 (Visitor) visa in the list of disqualifying visas so that holders of a Subclass 600 (Visitor) visa are unable to satisfy the criteria for grant of a Subclass 858 (Distinguished Talent) visa.

These amendments are consequential to the introduction of the Subclass 600 (Visitor) visa by item 3 of Schedule 2 to this Regulation.

Items 273 to 296 – Paragraph 864.212(ab); Subparagraph 864.212(c)(i); Subparagraph 864.212(c)(ii); Subparagraph 864.212(d)(ii); Sub-subparagraph 864.213(4)(a)(ii)(B); Paragraph 864.214(b); Clause 864.223 (table item 1); Clause 864.223 (table item 2); Clause 864.227 (table item 1); Clause 864.227 (table item 2); Clause 864.228 (table item 1); Clause 864.228 (table item 2); Clause 864.324 (table item 1); Clause 864.324 (table item 2); Subparagraph 884.212(1)(a)(ii); Clause 884.213; Clause 884.224 (table item 1); Clause 884.224 (table item 2); Clause 884.226 (table item 1); Clause 884.226 (table item 2); Clause 884.227 (table item 1); Clause 884.227 (table item 2); Clause 884.323 (table item 1); and Clause 884.323 (table item 2) of Schedule 2

These items omit the words “a substituted Subclass 676 visa” and insert “a substituted Subclass 600 visa” in various provisions in clause 864.212, clause 864.213, clause 864.214, clause 864.223, clause 864.227, clause 864.228 and clause 864.324 of Part 864 of Schedule 2 to the Principal Regulations and clause 884.212, clause 884.213, clause 884.224, clause 884.226, clause 884.227 and 884.323 of Part 884 of Schedule 2 to the Principal Regulations.

The amendments are consequential to the creation of the new Subclass 600 (Visitor) visa by this Regulation, and the amendment in item 2 of this Schedule which substitutes “substituted Subclass 600 visa” for the previous definition of “substituted Subclass 676 visa”.

#### Item 297 – Part 956 of Schedule 2

This item repeals Part 956 of Schedule 2 to the Principal Regulations.

Part 956 provides the criteria to be satisfied for grant of the Subclass 956 (Electronic Travel Authority (Business Entrant – Long Validity)) visa. This amendment repeals the Subclass 956 visa, which is replaced by the new Subclass 601 (Electronic Travel Authority) visa, which is inserted by item 2 of Schedule 3 to this Regulation.

After 23 March 2013, applicants who previously may have applied for a Subclass 956 visa are required to apply for a Subclass 601 visa.

The effect of the transitional provisions in Schedule 8 of this Regulation ensures that an application for a Subclass 956 visa made before 23 March 2013 continues to be decided in accordance with the previous Subclass 956 visa criteria.

#### Item 298 – Part 976 of Schedule 2

This item repeals Part 976 of Schedule 2 to the Principal Regulations.

Part 976 provides the criteria for the Subclass 976 (Electronic Travel Authority (Visitor)) visa. This amendment repeals the Subclass 976 visa, which is replaced by the new Subclass 601 (Electronic Travel Authority) visa. The Subclass 601 visa is created by item 2 of Schedule 3 to this Regulation.

After 23 March 2013, applicants who previously may have applied for a Subclass 976 visa are required to apply for a Subclass 601 visa.

The effect of the transitional provisions in Schedule 8 of this Regulation ensures that an application for a Subclass 976 visa made before 23 March 2013 continues to be decided in accordance with the previous Subclass 976 visa criteria.

Item 299 – Part 977 of Schedule 2

This item repeals Part 977 of Schedule 2 to the Principal Regulations.

Part 977 provides the criteria for the Subclass 977 (Electronic Travel Authority (Business Entrant – Short Validity) visa. This amendment repeals the Subclass 977 visa, which is replaced by the new Subclass 601 (Electronic Travel Authority) visa. The Subclass 601 visa is created by item 2 of Schedule 3 to this Regulation.

Applicants who previously may have applied for a Subclass 977 visa are required to apply for a Subclass 601 visa.

The effect of the transitional provisions in Schedule 8 of this Regulation ensure that an application for a Subclass 977 visa made before 23 March 2013 continues to be decided in accordance with the previous Subclass 977 visa criteria.

Item 300 – Paragraph 4013(2)(d) of Part 1 of Schedule 4

This item omits the words “paragraph 2.43(1)(i),” and inserts “paragraph 2.43(1)(ea), (i),” in paragraph 4013(2)(d) of Part 1 of Schedule 4 to the Principal Regulations.

Paragraph 4013(2)(d) provides that a person is affected by a risk factor if a visa previously held by the person was cancelled under section 116 or 128 of the Act because the Minister was satisfied that a ground prescribed by paragraph 2.43(1)(i), (ia), (j), (k), (ka), (kb), (m) or (o) applied to the person.

The amendment includes a reference to paragraph 2.43(1)(ea) which is a new cancellation ground for the purposes of paragraph 116(1)(g) of the Act that is inserted by item 29 of this Schedule.

Item 301 – After item 4058G of Part 2 of Schedule 4

This item inserts new item 4058GA into Part 2 of Schedule 4 to the Principal Regulations.

New item 4058GA lists conditions 8101 or 8201 as applicable to the new Subclass 602 (Medical Treatment) visa that is created by this Regulation.

The amendment ensures that an applicant for a visa may be affected by a risk factor for the purposes of Public Interest Criterion 4013 if a new Subclass 602 visa previously held by the person was cancelled for failure to comply with conditions 8101 or 8201.

Item 302 – Items 4058H to 4063 of Part 2 of Schedule 4

This item repeals items 4058H to 4063 of Part 2 of Schedule 4 to the Principal Regulations and substitutes new item 4058H.

Item 4058H sets out the conditions applicable to the Subclass 651 (eVisitor) visa for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa

cancellation results in the person being affected by a “risk factor”. These conditions are 8101, 8115 and 8201.

New condition 8115 sets out the “business visitor activity condition” and is inserted by item 4 of Schedule 2 to this Regulation as new clause 8115 of Schedule 8 to the Principal Regulations. This condition does not permit work except for “business visitor activities” as defined for the purposes of the new condition.

This item is consequential to the inclusion of condition 8115 in the Subclass 651 (eVisitor) visa by item 1 of Schedule 5 to this Regulation.

The amendment also repeals items 4059 to 4063 because, according to paragraph 4013(1)(a) of Part 1 of Schedule 4 to the Principal Regulations, the “risk factor” to which these references relate, is only relevant if less than three years have passed since the visa was cancelled. As items 4059 to 4063 refer to visas that are no longer in existence and that were cancelled over three years ago, they are redundant references.

#### Item 303 – Item 4065 of Part 2 of Schedule 4

This item repeals item 4065 of Part 2 of Schedule 4 to the Principal Regulations which refers to a Subclass 676 (Tourist (Short Stay)) visa.

Item 4065 sets out the conditions applicable to the Subclass 676 (Tourist (Short Stay)) visa for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa cancellation results in the person being affected by a “risk factor”.

The Subclass 676 (Tourist (Short Stay)) visa was repealed on 1 July 2005 by the *Migration Amendment Regulations 2005 (No. 3)*.

According to paragraph 4013(1)(a) of Part 1 of Schedule 4 to the Principal Regulations, the “risk factor” to which this reference relates, is only relevant if less than three years have passed since the visa was cancelled. As item 4065 refers to a visa that is no longer in existence and that was cancelled over three years ago, this item is redundant.

#### Item 304 – After item 4065A of Part 2 of Schedule 4

This item inserts a new item 4065B of Part 2 of Schedule 4 to the Principal Regulations which refers to the new Subclass 600 (Visitor) visa.

Item 4065A sets out the conditions applicable to the Subclass 600 (Visitor) visa for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa cancellation results in the person being affected by a “risk factor”. These conditions are 8101, 8115, 8201 and 8558.

This amendment is consequential to the creation of the Subclass 600 (Visitor) visa by item 3 of Schedule 2 to this Regulation.

#### Item 305 – Items 4066 to 4069 of Part 2 of Schedule 4

This item repeals items 4066 to 4069 of Part 2 of Schedule 4 to the Principal Regulations, which previously referred to a Subclass 680 (Tourist) visa, a Subclass 682 (Business Visitor) visa, a Subclass 683 (Close Family Visitor) visa and a Subclass 684 (Visitor (Other)) visa.



Items 4066 to 4069 set out the conditions applicable to the specified visas for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa cancellation results in the person being affected by a “risk factor”.

According to paragraph 4013(1)(a) of Part 1 of Schedule 4 to the Principal Regulations, the “risk factor” to which these references relate, is only relevant if less than three years have passed since the visa was cancelled. As items 4066 to 4069 refer to visas that are no longer in existence and that were cancelled over three years ago, they are redundant.

#### Item 306 – Item 4071 of Part 2 of Schedule 4

This item repeals item 4071 of Part 2 of Schedule 4 to the Principal Regulations, which refers to a Subclass 686 (Tourist (Long Stay)) visa.

Item 4071 sets out the conditions applicable to the Subclass 686 (Tourist (Long Stay)) visa for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa cancellation results in the person being affected by a “risk factor”.

The Subclass 686 (Tourist (Long Stay)) visa was repealed on 1 July 2005 by the *Migration Amendment Regulations 2005 (No. 3)*.

According to paragraph 4013(1)(a) of Part 1 of Schedule 4 to the Principal Regulations, the “risk factor” to which this reference relates, is only relevant if less than three years have passed since the visa was cancelled. As item 4071 refers to a visa that is no longer in existence and that was cancelled over three years ago, this item is now redundant.

#### Item 307 – After item 4075 of Part 2 of Schedule 4

This item inserts a new item 4076 of Part 2 of Schedule 4 to the Principal Regulations.

New item 4076 sets out the conditions applicable to the Subclass 601 (Electronic Travel Authority) visa for the purposes of subclause 4013(2) of Schedule 4 to the Principal Regulations, under which visa cancellation results in the person being affected by a “risk factor”. These conditions are 8115 and 8201.

Condition 8115 sets out the new “business visitor activity condition” and is inserted by item 4 of Schedule 2 to this Regulation as new clause 8115 of Schedule 8 to the Principal Regulations. This condition does not permit work but limits the visa holder to “business visitor activities” as described in the new condition.

This amendment is consequential to the creation of the Subclass 601 (Electronic Travel Authority) visa by item 2 of Schedule 3 to this Regulation.

#### Item 308 – Subclause 8201(2) of Schedule 8 (after table item 1)

This item inserts new item 1A in the table in subclause 8201(2) of Schedule 8 to the Principal Regulations, to include reference to the new Subclass 602 (Medical Treatment) visa.

The amendment ensures that subclause 8201(1) of Schedule 8 to the Principal Regulations does not apply to a Subclass 602 visa in the specified circumstances.

Item 309 – Clause 8530 of Schedule 8

This item repeals clause 8530 in Schedule 8 to the Principal Regulations, and substitutes new clause 8530.

Previous clause 8530 provided that the holder of a visa to which this condition applies, must not discontinue, or deviate from, the tour arrangements approved, in writing, by the Minister under subparagraph 676.221(2)(d)(ii). New clause 8530 provides that “the holder must not deviate from the organised tour referred to in clause 600.252 of Schedule 2”.

The amendment removes the reference to subparagraph 676.221(2)(d)(ii), which is repealed by item 241 of this Schedule, and replace it with a reference to clause 600.252, which is inserted by item 3 of Schedule 2 to this Regulation.

Item 310 – Item 22 of Part 1 of Schedule 9 (column 2)

This item inserts the words “, as in force before 23 March 2013,” after “of Schedule 1” in column 2 of item 22 of Part 1 of Schedule 9 to the Principal Regulations.

Item 22 previously provided that the evidence of identity that must be shown by a person referred to in paragraph 1223A(1)(c) of Schedule 1 who holds a Temporary Business Entry (Class UC) visa is a passport of a designated APEC economy; or in the case of a permanent resident of Hong Kong – any valid passport.

The amendment to item 22 provides that the evidence of identity that must be shown by a person referred to in paragraph 1223A(1)(c) of Schedule 1, as in force before 23 March 2013, who holds a Temporary Business Entry (Class UC) visa is a passport of a designated APEC economy; or in the case of a permanent resident of Hong Kong – any valid passport.

The amendment is consequential to the repeal of paragraph 1223A(1)(c) by item 63 of this Schedule and ensures that a person referred to in paragraph 1223A(1)(c) as in force before 23 March 2013 continues to be subject to the evidence of identity requirements previously set out in this item.

Item 311 – Item 23 of Part 1 of Schedule 9

This item repeals item 23 and substitutes new items 22A and 23 in Part 1 of Schedule 9 to the Principal Regulations.

Item 22A provides that the evidence of identity that must be shown by persons holding a Subclass 600 (Visitor) visa granted on the basis of any application which was taken to have been validly made under regulation 2.07AA is a passport of a designated APEC economy; or in the case of a permanent resident of Hong Kong – any valid passport.

The new item also substitutes item 23 of Part 1 of Schedule 9 to the Principal Regulations.

Item 23 provides that the evidence of identity that must be shown by persons holding a visa granted on the basis of an Internet application; and a passport of a kind specified by Gazette Notice for paragraph 1218(3)(d) of Schedule 1 or paragraph 417.211(3)(a) or (b) of Schedule 2 is a passport mentioned in column 2 (passport of a kind specified by Gazette Notice for paragraph 1218(3)(d) of Schedule 1 or paragraph 417.211(3)(a) or (b) of Schedule 2).

New item 23 removes superseded references and includes the equivalent Schedule 1 provision for the Subclass 600 (Visitor) visa to provide that the evidence of identity that must be shown by persons holding a visa granted on the basis of an Internet application; and either: a passport of a kind specified by the Minister in an instrument in writing for paragraph 1218(3)(d) of Schedule 1, as in force before 23 March 2013; or a passport of a kind specified by the Minister in an instrument in writing for subparagraph 1218(1)(b)(ii) of Schedule 1; or a passport of a kind specified by the Minister in an instrument in writing for item 1 of the table in subitem 1236(4) of Schedule 1; or a working holiday eligible passport within the meaning of subitem 1225(5) of Schedule 1 is a passport mentioned in column 2.

This item is consequential to the creation of the Subclass 600 (Visitor) visa by item 3 of Schedule 2 to this Regulation and the amendments to subitem 1218(1) by item 59 of this Schedule.

### **Schedule 7 – Amendments relating to Subclass 401 (Temporary Work (Long Stay Activity)) visa**

#### **Item 1 – At the end of subregulation 2.60L(2)**

This item adds new paragraphs 2.60L(2)(f) and (g) in Division 2.13 of Part 2A of the Principal Regulations.

Regulation 2.60L sets out the requirements to be met for approval as a long stay activity sponsor. Paragraphs 2.60L(2)(a)-(e) set out the organisations, institutions and government agencies engaged in sporting, religious and staff exchange activities that may be approved as a long stay activity sponsor. New paragraphs 2.60L(2)(f) and (g) sets out additional foreign government agencies and organisations that may be approved as a long stay activity sponsor.

New paragraph 2.60L(2)(f) sets out a criterion for approval as a long stay activity sponsor that the person must be a foreign government agency which is the employer of the holder of a Subclass 403 (Temporary Work (International Relations)) visa in the Privileges and Immunities stream and the visa holder is the national managing director, deputy national managing director or state manager of an Australian office of the foreign government agency.

New paragraph 2.60L(2)(g) sets out an alternative criterion for approval as a long stay activity sponsor requiring that the person must be a foreign organisation which is lawfully operating in Australia, and the foreign organisation is the employer of the holder of a Subclass 457 (Temporary Work (Skilled)) visa who is the national managing director, deputy national managing director or state manager of an Australian office of the foreign organisation.

The purpose of the amendment is to enable a foreign organisation or foreign government agency that is the employer of an executive holding a Subclass 457 or 403 visa, respectively, to be approved as a long stay activity sponsor under regulation 2.60L. A foreign organisation or foreign government agency that is approved as a long stay activity sponsor under the provisions is now able to nominate and sponsor for a Subclass 401 (Temporary Work (Long Stay Activity)) visa, a domestic worker to be employed in the household of the Subclass 457 or 403 visa holder who is an executive employee of the foreign organisation or foreign government agency.

Item 2 – Subregulation 2.72J(2)

This item omits subregulations 2.72J(3), (4) and (5) and substitutes subregulations 2.72J(3), (4), (5) and (6) in Division 2.17 of Part 2A of the Principal Regulations.

The purpose of the amendment is consequential to the introduction in the Principal Regulations by item 3 of this Schedule.

Item 3 – At the end of regulation 2.72J

This item adds new subregulation 2.72J(6) in Division 2.17 of Part 2A of the Principal Regulations.

The amendment is part of a range of amendments to enable domestic workers of relevant executives to be granted a Subclass 401 visa, subject to satisfaction of other criteria. This ensures that these applicants continue to have access to a visa following the repeal of Subclass 427 (Domestic Worker (Temporary) – Executive)) by the *Migration Amendment Regulation 2012 (No 4)* on 24 November 2012. This amendment relates to the nomination of the domestic worker.

Regulation 2.72J – Criteria for approval of nomination – Subclass 401 (Temporary Work (Long Stay Activity)) visa – sets out the requirements for approval of a nomination for a Subclass 401 (Temporary Work (Long Stay Activity)) visa. New subregulation 2.72J(6) provides additional criteria for approval of a nomination for a Subclass 401 visa.

New paragraph 2.72J(6)(a) requires that the nominator must be an approved long stay activity sponsor who is a foreign government agency and the employer of the holder of a Subclass 403 (Temporary Work (International Relations)) visa in the Privileges and Immunities stream; or a foreign organisation lawfully operating in Australia who is the employer of a Subclass 457 (Temporary Work (Skilled)) visa holder.

New paragraph 2.72J(6)(b) further requires that the Subclass 403 or 457 visa holder must be the national managing director, deputy national managing director or state manager of an Australian office of the foreign government agency or foreign organisation.

New paragraphs 2.72J(6)(c) - (f) then set out further requirements that must be satisfied by a nomination.

New paragraph 2.72J(6)(c) requires that the nominated person (the nominee) must be employed to undertake full-time domestic duties in the private household of the Subclass 403 or Subclass 457 visa holder who is employed by the long stay activity sponsor mentioned in new subregulation 2.60L(2), inserted by item 1 of this Schedule.

New paragraph 2.72J(6)(d) requires that the number of domestic workers granted a visa for employment in the household of the relevant holder of the Subclass 403 or Subclass 457 visa must not, at any time, exceed 3 (including the identified visa holder or applicant).

New paragraph 2.72J(6)(e) requires that the nominee must have turned 18 and must have experience working as a domestic worker.

New paragraph 2.72J(6)(f) requires the long stay activity sponsor to provide evidence that the long stay activity sponsor has been unable to find a suitable person in Australia for the nominated occupation, or that there are compelling reasons for employing the nominee.

The purpose of the amendment is to provide that, as an approved long stay activity sponsor, a foreign organisation employing an executive holding a Subclass 457 visa or a foreign government agency employing an executive holding a Subclass 403 visa in the Privileges and Immunities stream, is able to nominate a domestic worker applying for a Subclass 401 (Temporary Work (Long Stay Activity)) visa to undertake domestic duties in the household of the visa holder.

#### Item 4 – Regulation 2.80A (heading)

This item repeals the heading and substitutes a new heading for regulation 2.80A in Division 2.19 of Part 2A of the Principal Regulations.

The previous title is ‘Obligation to pay travel costs – domestic worker sponsor.’ The new title is ‘Obligation to pay travel costs – domestic worker (executive).’ The title better reflects the purpose of the regulation. The amendments provide that the obligation to pay travel costs apply to long stay activity sponsors of holders of a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive)) stream, as well as to domestic worker sponsors.

The amendment is consequential to the amendments made by items 1, 2 and 10 of this Schedule to allow for nomination by long stay activity sponsors of the domestic workers of certain executives for the grant of a Subclass 401 (Temporary Work (Long Stay Activity)) visa.

#### Item 5 – After subregulation 2.80A(1)

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

Regulation 2.80A imposes an obligation on certain sponsors to pay travel costs to enable the sponsored person to travel to and depart Australia.

New subregulation 2.80A(1A) provides that regulation 2.80A applies to a person who is or was a long stay activity sponsor of a primary sponsored person or a secondary sponsored person if the primary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream or the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream.

The purpose of the amendment is to provide that the travel cost obligation also applies to a long stay activity sponsor where the sponsored person holds, or held as their last substantive visa, a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream.

The amendment is consequential to the amendments made by items 1, 2 and 10 of this Schedule to allow for nomination by long stay activity sponsors of the domestic workers of certain executives for the grant of a Subclass 401 (Temporary Work (Long Stay Activity)) visa.

Item 6 – Subparagraphs 2.87(2A)(b)(i) and (ii)

This item repeals subparagraphs 2.87(2A)(b)(i) and (ii) and substitute new subparagraphs 2.87(2A)(b)(i) and (ii) in Division 2.19 of Part 2A of the Principal Regulations.

Regulation 2.87 imposes an obligation on approved sponsors not to recover, or seek to recover, from the sponsored person the costs related to the recruitment of the person, including migration agent costs and the costs associated with sponsorship. In addition, in respect of certain sponsored persons set out in subregulation 2.87(2A), the sponsor must not recover, or seek to recover, from the sponsored person any expenditure by the sponsor in relation to the financial support of the sponsored person in Australia.

New subparagraphs 2.87(2A)(b)(i) and (ii) provide that the obligation in subregulation 2.87(2A) also applies if the sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream or the Domestic Worker (Executive) stream, or the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream or the Domestic Worker (Executive) stream.

The purpose of the amendment is to expand the obligation in subregulation 2.87(2A) (not to recover costs for support in Australia) to a long stay activity sponsor of a primary sponsored person or a secondary sponsored person who holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream.

The amendment is consequential to the amendments made by items 1, 2 and 10 of this Schedule to allow for nomination by long stay activity sponsors of the domestic workers of certain executives for the grant of a Subclass 401 (Temporary Work (Long Stay Activity)) visa.

Item 7 – Clause 401.111 of Schedule 2

This item inserts a new definition, *foreign government agency*, in Division 401.1 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

The amendment to clause 401.111 provides that for the purposes of Subclass 401, the term *foreign government agency* has the meaning given by subregulation 2.57(1) which provides that a *foreign government agency* includes an organisation that is conducted under the official auspices of a foreign national government and that is operating in Australia, including foreign tourist and media bureaus, trade offices and other foreign government entities, a foreign diplomatic or consular mission in Australia, and an organisation that is conducted under the official auspices of an international organisation recognised by Australia and that is operating in Australia.

The purpose of the amendment is to set out the meaning of *foreign government agency* as the term is used in the new Domestic Worker (Executive) stream which is to be introduced in Subclass 401 by item 10 of this Schedule.

Item 8 – Division 401.2 of Schedule 2 (note)

This item inserts a new paragraph in the note in Division 401.2 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

The new paragraph in the note provides that, in addition to the provisions already in the note, if an applicant applies for a Subclass 401 visa in the Domestic Worker (Executive) stream, the criteria in Subdivisions 401.21 (Common criteria) and 401.25 (Domestic Worker (Executive) stream) are the primary criteria.

The amendment is consequential to the introduction in Subclass 401 of a new Domestic Worker (Executive) stream by item 10 of this Schedule.

Item 9 – Division 401.2 of Schedule 2 (note, fifth paragraph)

This item repeals the paragraph and substitutes four new dot points in the note in Division 401.2 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

The relevant note states that the primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds one of the listed visas on the basis of satisfying the primary criteria. The amendment inserts a new dot-point reference to a Subclass 427 (Domestic Worker (Temporary) – Executive) visa, in addition to the references to a Subclass 411 (Exchange) visa, Subclass 421 (Sport) visa and a Subclass 428 (Religious Worker) visa.

The amendment is consequential to the amendment made by item 12 of this Schedule.

Item 10 – After Subdivision 401.24 of Schedule 2

This item inserts a new Subdivision 401.25 (Criteria for Domestic Worker (Executive) stream) in Division 401.2 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

New Subdivision 401.25 sets out the criteria to be satisfied by a person seeking to satisfy the primary criteria for the grant of a Subclass 401 visa in the Domestic Worker (Executive) stream. An applicant seeking to satisfy the primary criteria on this basis is required to satisfy the common criteria in Division 401.2 and the criteria in the new stream. The criteria are as follows.

New subclause 401.251(1) requires the applicant to be identified in a nomination by a long stay activity sponsor who is a foreign organisation and is the employer of a relevant Subclass 457 visa holder; or a foreign government agency and is the employer of a relevant Subclass 403 visa holder.

New subclause 401.251(2) requires that the nomination must meet the criteria in subregulation 2.72J(6) which is inserted by item 2 of this Schedule.

New subclause 401.251(3) requires that the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

Item 11 – Division 401.3 of Schedule 2 (note)

This item repeals the note and substitutes a dot point reference to a Subclass 427 (Domestic Worker (Temporary) – Executive) visa in paragraph (c) of the note in Division 401.3 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

The amendment is consequential to the amendment made by item 11 of this Schedule.

Item 12 – Paragraph 401.311(d) of Schedule 2

This item repeals paragraph 401.311(d) and substitutes new paragraphs 401.311(d) and (e) in Division 401.3 of Part 401 (Subclass 401 – Temporary Work (Long Stay Activity)) of Schedule 2 to the Principal Regulations.

New paragraph 401.311(d) inserts a reference to a Subclass 427 (Domestic Worker (Temporary) – Executive) visa.

New paragraph 401.311(e) re-inserts the previous reference to a Subclass 428 (Religious Worker) visa in the numerical order of the relevant subclass.

The amendment corrects an oversight in the *Migration Legislation Amendment Regulation 2012 (No 4)*, which commenced on 24 November 2012. It was the intention for clause 401.311 to apply to a member of the family unit of a person who holds a Subclass 427 (Domestic Worker (Temporary) – Executive) visa granted on the basis of satisfying the primary criteria. However the reference to a Subclass 427 (Domestic Worker (Temporary) – Executive) visa was inadvertently omitted from the clause.

**Schedule 8 – Amendments relating to transitional arrangements**Item 1 – At the end of Schedule 13

This item adds a new Part 12 (Amendments made by *Migration Amendment Regulation 2013 (No. 1)*) in Schedule 13 to the Principal Regulations.

Schedule 13 sets out the transitional arrangements which apply to amendments to the Principal Regulations. New Part 12 sets out the transitional arrangements which apply to amendments to the Principal Regulations made by this Regulation.

*Item 1201 - Operation of Schedules 1 to 7*

New item 1201 provides that the amendments made by Schedules 1 to 7 to this Regulation apply in relation to an application for a visa made on or after 23 March 2013.