



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

## **Select Legislative Instrument No. 33, 2013**

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I, Quentin Bryce, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Migration Act 1958*.

Dated                      14 March 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

Brendan O'Connor  
Minister for Immigration and Citizenship

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## 1 Name of regulation

This regulation is the *Migration Legislation Amendment Regulation 2013 (No. 1)*.

## 2 Commencement

- (1) Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	23 March 2013.	23 March 2013
2. Schedules 1 and 2	23 March 2013.	23 March 2013
3. Schedule 3	13 April 2013.	13 April 2013
4. Schedule 4	1 July 2013.	1 July 2013
5. Schedules 5 and 6	23 March 2013.	23 March 2013

Note: This table relates only to the provisions of this regulation as originally made. It will not be amended to deal with any later amendments of this regulation.

- (2) Any information in column 3 of the table is not part of this regulation. Information may be inserted in this column, or information in it may be edited, in any published version of this regulation.

## 3 Authority

This regulation is made under the *Migration Act 1958*.

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#### **4 Schedule(s)**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments relating to Tribunal fees

### *Migration Regulations 1994*

#### **1 At the end of subregulation 4.13(1)**

Add:

Note: The fee in subregulation (1) is subject to increase under regulation 4.13A.

#### **2 After regulation 4.13**

Insert:

##### **4.13A Biennial increases in fees**

Despite any other provision of these Regulations, the fee prescribed by subregulation 4.13(1) is increased, in accordance with regulation 4.13B, on each biennial anniversary of 1 July 2011.

##### **4.13B Calculation of increase**

- (1) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, a fee is taken to increase, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

**earlier CPI number** is the CPI number for the last March quarter before the beginning of the relevant period.

**latest CPI number** is the CPI number for the last March quarter before the end of the relevant period.

- (2) If, apart from this subregulation, the amount of a fee increased under subregulation (1) would be an amount of dollars and cents, the amount is to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, rounded down.

- (3) Subject to subregulation (4), if at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this regulation.
- (4) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this regulation after the change is made, regard must be had only to numbers published in terms of the new reference base.
- (5) In this regulation:

***CPI number*** means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

***fee*** means:

- (a) a fee prescribed by subregulation 4.13(1); or
- (b) the fee in force at the end of the relevant period if regulation 4.13A applies.

***relevant period*** means any of the following periods:

- (a) the 2 year period commencing on 1 July 2011;
- (b) after that period—each 2 year period commencing on a biennial anniversary of 1 July 2011.

### 3 At the end of paragraph 4.31B(1)(c)

Add:

Note: The fee in paragraph (1)(c) is subject to increase under regulation 4.31BA.

### 4 After regulation 4.31B

Insert:



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**4.31BA Biennial increases in fees**

Despite any other provision of these Regulations, the fee prescribed by paragraph 4.31B(1)(c) is increased in accordance with regulation 4.31BB, on each biennial anniversary of 1 July 2011.

**4.31BB Calculation of increase**

- (1) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, a fee is taken to increase, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

**earlier CPI number** is the CPI number for the last March quarter before the beginning of the relevant period; and

**latest CPI number** is the CPI number for the last March quarter before the end of the relevant period.

- (2) If, apart from this subregulation, the amount of a fee increased under subregulation (1) would be an amount of dollars and cents, the amount is to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, rounded down.
- (3) Subject to subregulation (4), if at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this regulation.
- (4) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this regulation after the change is made, regard must be had only to numbers published in terms of the new reference base.

(5) In this regulation:

***CPI number*** means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

***fee*** means:

- (a) a fee prescribed by paragraph 4.31B(1)(c); or
- (b) the fee in force at the end of the relevant period if regulation 4.31BA applies.

***relevant period*** means any of the following periods:

- (a) the 2 year period commencing on 1 July 2011;
- (b) after that period—each 2 year period commencing on a biennial anniversary of 1 July 2011.

## Schedule 2—Amendments relating to post-study work arrangements and other matters

### *Migration Regulations 1994*

#### **1 Regulation 1.03 (definition of *registered course*)**

Omit “section 9”, substitute “Division 3 of Part 2”.

#### **2 Sub-sub-paragraph 1136(2)(a)(i)(F)(II) of Schedule 1**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

#### **3 Subparagraph 1136(5)(a)(ii) of Schedule 1**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

#### **4 Sub-subparagraph 1136(7)(a)(vi)(B) of Schedule 1**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

#### **5 Item 1229 of Schedule 1**

Repeal the item, substitute:

#### **1229. Skilled (Provisional) (Class VC)**

(1) Forms: The form or forms specified by the Minister in an instrument in writing for this subitem.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

<b>Charge</b>		
<b>Item</b>	<b>Column 1 Applicant</b>	<b>Column 2 Charge</b>
1	An applicant who seeks to satisfy the criteria for the grant of a Subclass 485 (Temporary Graduate) visa	\$1,250
2	An applicant who seeks to satisfy the criteria for the	\$280

**Schedule 2** Amendments relating to post-study work arrangements and other matters

<b>Charge</b>		
<b>Item</b>	<b>Column 1 Applicant</b>	<b>Column 2 Charge</b>
	grant of a Subclass 487 (Skilled — Regional Sponsored) visa, and who holds: (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or (d) a Subclass 487 (Skilled — Regional Sponsored) visa	
3	Any other applicant	\$3,060
	(b) Second instalment (payable before grant of visa):	
<b>Charge</b>		
<b>Item</b>	<b>Column 1 Applicant</b>	<b>Column 2 Charge</b>
1	An applicant who: (a) seeks to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa; and (b) had turned 18 at the time of application; and (c) is assessed as not having functional English; and (d) has not paid a second instalment of visa application charge in relation to the application for the visa, mentioned in paragraph (a), that the applicant holds	\$4,250
2	Any other applicant	Nil
	(3) Other: (a) An application by a person seeking to satisfy the primary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must be made before 1 January 2013. (b) An application by a person seeking to satisfy the secondary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must be made before 1 July 2012. (c) An application must be made: (i) as an Internet application; or (ii) by posting the application (with the correct pre-paid postage) to the post office box address or other address	

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specified by the Minister in an instrument in writing for this subparagraph; or

- (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.

**Note:** An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made. See regulation 2.10C.

(d) If an applicant:

- (i) is not seeking to satisfy the criteria for the grant of a Subclass 485 (Temporary Graduate) visa; and
- (ii) has not nominated a skilled occupation specified by the Minister in an instrument in writing for paragraph (e); the applicant's skills must have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.

(e) If an applicant:

- (i) is not seeking to satisfy the criteria for the grant of a Subclass 485 (Temporary Graduate) visa; and
- (ii) has nominated a skilled occupation specified by the Minister in an instrument in writing for this paragraph; the applicant's skills must have been assessed by the relevant assessing authority, on or after 1 January 2010, as suitable for the applicant's nominated skilled occupation.

- (f) An applicant claiming to be a member of the family unit of a person who, having satisfied the primary criteria, holds a Skilled (Provisional) (Class VC) visa may be in or outside Australia when making his or her application, but not in immigration clearance.

- (g) An applicant to whom paragraph (f) does not apply must be in Australia, but not in immigration clearance, when making his or her application.

- (h) An application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.

- (i) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must meet the requirements of subitem (3A) or (3B).
  - (j) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must nominate only one stream to which the application relates.
  - (k) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Graduate Work stream must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this paragraph.
  - (l) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream:
    - (i) must hold a Student Temporary (Class TU) visa that:
      - (A) was granted on the basis of an application made on or after 5 November 2011; and
      - (B) is the first Student Temporary (Class TU) visa that the applicant has held; or
    - (ii) must have held a Student Temporary (Class TU) visa that:
      - (A) was granted on the basis of an application made on or after 5 November 2011; and
      - (B) was the first Student Temporary (Class TU) visa that the applicant had held.
  - (m) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must meet the requirements of subitem (4).
  - (n) An applicant who is seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must also meet the requirements of subitem (4), (5), (6), (7) or (9).
- (3A) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must be nominated by a State or Territory government agency.
- (3B) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa must meet all of the following requirements:
-

- (a) the applicant is sponsored by a person who:
  - (i) has turned 18; and
  - (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;
- (b) the applicant has declared on the application that the sponsor:
  - (i) is usually resident in a designated area of Australia; and
  - (ii) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also seeking to satisfy the criteria for a Subclass 487 (Skilled — Regional Sponsored) visa), as:
    - (A) a parent; or
    - (B) a child or step-child; or
    - (C) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
    - (D) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
    - (E) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece; or
    - (F) a grandparent or first cousin;
- (c) each person who:
  - (i) is an applicant; and
  - (ii) claims to be a member of the family unit of the applicant;

is sponsored by the same person;
- (d) the sponsorship was entered into on Form 1277 (Internet) or Form 1277.

Note: For *designated area*, see regulation 1.03.

- (4) The following requirements must be met:
  - (a) one of the following subparagraphs must be satisfied by the applicant:
    - (i) the applicant holds an eligible student visa;
    - (ii) the applicant must hold a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for a visa other than one of the following visas:

- (A) a Subclass 570 (Independent ELICOS Sector) visa;
  - (B) a Subclass 571 (Schools Sector) visa;
  - (C) a Subclass 572 (Vocational Education and Training Sector) visa, a Subclass 573 (Higher Education Sector) visa, or a Subclass 574 (Postgraduate Research Sector) visa, that was applied for on the basis that the applicant seeking to satisfy the primary criteria for the grant of that visa intends to undertake a course of study paid for, wholly or in part, by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency and for which a condition of payment by that body for the course is that the student will leave Australia on the completion of the course;
  - (D) a Subclass 572 (Vocational Education and Training Sector) visa, a Subclass 573 (Higher Education Sector) visa, or a Subclass 574 (Postgraduate Research Sector) visa that was applied for on the basis that the applicant seeking to satisfy the primary criteria for the grant of that visa intends to undertake a course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; and for which a condition of that scheme or program is that the student will leave Australia on completion of the course;
  - (E) a Subclass 575 (Non-Award Sector) visa;
  - (F) a Subclass 576 (AusAID or Defence Sector) visa;
- and must also have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application is made;
- (iii) the applicant must:
- (A) hold a substantive visa other than a visa mentioned in sub-subparagraphs (ii) (A) to (F); and



- (B) have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application for the Skilled (Provisional) (Class VC) visa is made;
  - (iv) the applicant must have been taken, under sections 368C, 368D and 379C of the Act, to have been notified that the Migration Review Tribunal has set aside and substituted the Minister's decision not to revoke the cancellation of the applicant's eligible student visa not more than 28 days before the day on which the application is made;
  - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa must be less than 50.
- (5) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa:
  - (a) the applicant must hold:
    - (i) a Subclass 476 (Skilled — Recognised Graduate) visa; or
    - (ii) a Subclass 485 (Temporary Graduate) visa; and
  - (b) if the applicant is seeking to satisfy the primary criteria for the grant of the visa, the applicant must:
    - (i) have been granted the visa mentioned in paragraph (a) on the basis of satisfying the primary criteria for the grant of that visa; and
    - (ii) nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.
- (6) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa:
  - (a) the applicant must hold a Subclass 471 (Trade Skills Training) visa; and
  - (b) if the applicant is seeking to satisfy the primary criteria for the grant of the visa, the applicant:
    - (i) must have held, for a total of at least 2 years before the day on which the application was made, of the Subclass 471 (Trade Skills Training) visa mentioned in

- paragraph (a) that was granted on the basis of satisfying the primary criteria for the grant of that visa; and
  - (ii) must be less than 50; and
  - (iii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.
- (7) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa:
  - (a) the applicant must hold:
    - (i) a Subclass 417 (Working Holiday) visa; or
    - (ii) a Subclass 442 (Occupational Trainee) visa that was granted on the basis of satisfying the primary criteria for that visa; and
  - (b) if the applicant is seeking to satisfy the primary criteria for the grant of the visa, the applicant:
    - (i) must be less than 50; and
    - (ii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.
- (9) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa, the applicant must claim to be a member of the family unit of an applicant who holds a Skilled (Provisional) (Class VC) visa granted on the basis of satisfying the primary criteria for the grant of the visa.
- (10) Subclasses:
  - Subclass 485 (Temporary Graduate)
  - Subclass 487 (Skilled — Regional Sponsored).

## **6 Paragraph 202.222(2)(a) of Schedule 2**

Omit “persecution”, substitute “discrimination”.

## **7 Paragraph 202.222(2)(c) of Schedule 2**

Omit “persecution”, substitute “discrimination”.

## **8 Paragraph 476.211(b) of Schedule 2**

Omit “a Subclass 485 (Skilled — Graduate) visa”, insert “a Subclass 485 (Temporary Graduate) visa”.

## **9 Part 485 of Schedule 2**

Repeal the Part, substitute:

### **Subclass 485—Temporary Graduate**

#### **485.1—Interpretation**

##### **485.111**

In this Part:

*degree* has the same meaning as in subregulation 2.26AC(6).

*diploma* has the same meaning as in subregulation 2.26AC(6).

*trade qualification* has the same meaning as in subregulation 2.26AC(6).

Note 1: Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 2: Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

Note 3: For *registered course*, *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

#### **485.2—Primary criteria**

Note: The primary criteria for the grant of a Subclass 485 visa include criteria set out in streams.

If an applicant applies for a Subclass 485 visa in the Graduate Work stream, the criteria in Subdivisions 485.21 and 485.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 485 visa in the Post-Study Work stream, the criteria in Subdivisions 485.21 and 485.23 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application, unless otherwise stated.

### **485.21—Common criteria**

Note: These criteria are for all applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa.

#### **485.211**

The applicant:

- (a) has not previously held a Subclass 476 (Skilled — Recognised Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

#### **485.212**

When the application was made, it was accompanied by evidence that the applicant had competent English.

#### **485.213**

When the application was made, it was accompanied by evidence that:

- (a) the applicant; and
- (b) each person included in the application who is at least 16; had applied for an Australian Federal Police check during the 12 months immediately before the day the application is made.

#### **485.214**

When the application was made, it was accompanied by evidence that:

- (a) the applicant; and
- (b) each person included in the application; had made arrangements to undergo a medical examination for the purpose of the application.

**485.215**

- (1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements in Australia for health insurance.
- (2) The applicant has had adequate arrangements in Australia for health insurance since the time the application was made.

**485.216**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) Each member of the family unit of the applicant who is an applicant for a Subclass 485 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.
- (4) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 485 visa; and
  - (b) had turned 18 at the time of application;satisfies public interest criteria 4019.
- (5) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 485 visa; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;satisfies public interest criteria 4015 and 4016.

**485.217**

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 485 visa; and
  - (b) has previously been in Australia;satisfies special return criteria 5001, 5002 and 5010.

**485.218**

Grant of the visa would not result in either:

- (a) the number of Subclass 485 visas granted in a financial year exceeding the maximum number of Subclass 485 visas specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 485) granted in a financial year exceeding the maximum number of visas of those classes, specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

**485.22—Criteria for Graduate Work stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 485 visa in the Graduate Work stream.

**485.221**

The applicant satisfied the Australian study requirement in the period of 6 months immediately before the day the application was made.

**485.222**

Each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

**485.223**

When the application was made, it was accompanied by evidence that the applicant had applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

**485.224**

- (1) The skills of the applicant for the applicant's nominated skilled occupation have been assessed by a relevant assessing authority as suitable for that occupation.

- (2) If the applicant's skills were assessed on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

### **485.23—Criteria for Post-Study Work stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa in the Post-Study Work stream.

#### **485.231**

- (1) The applicant holds a qualification or qualifications of a kind specified by the Minister in an instrument in writing for this subclause.
- (2) Each qualification was conferred or awarded by an educational institution specified by the Minister in an instrument in writing for this subclause.
- (3) The applicant's study for the qualification or qualifications satisfied the Australian study requirement in the period of 6 months ending immediately before the day the application was made.

### **485.3—Secondary criteria**

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

#### **485.31—Criteria**

##### **485.311**

The applicant:

- (a) is a member of the family unit of a person who holds a Subclass 485 visa granted on the basis of satisfying the primary criteria for the grant of the visa, and made a combined application with that person; or
- (b) is a member of the family unit of a person who holds a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 485 visa.

**485.312**

- (1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements in Australia for health insurance.
- (2) The applicant has had adequate arrangements in Australia for health insurance since the time the application was made.

**485.313**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

**485.314**

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

**485.4—Circumstances applicable to grant**

**485.411**

- (1) The applicant who satisfies the primary criteria for the grant of the visa must be in Australia when the visa is granted.
- (2) Each applicant who made a combined application with the applicant who satisfies the primary criteria for the grant of the visa must be in Australia when the visa is granted.
- (3) In any other case, the applicant may be in or outside Australia when the visa is granted.



## **485.5—When visa is in effect**

### **485.511**

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

## **485.6—Conditions**

### **485.611**

Condition 8501 must be imposed.

### **485.612**

If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

## **10 Paragraph 487.212(3)(b) of Schedule 2**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

## **11 Subparagraph 572.211(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

- (ia) Subclass 485 (Temporary Graduate);

## **12 Sub-subparagraph 572.227(c)(iii)(BA) of Schedule 2**

Repeal the sub-subparagraph, substitute:

- (BA) Subclass 485 (Temporary Graduate);

## **13 Subparagraph 572.312(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

- (ia) Subclass 485 (Temporary Graduate);

## **14 Subparagraph 573.211(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

- (ia) Subclass 485 (Temporary Graduate);

**15 Sub-subparagraph 573.227(c)(iii)(BA) of Schedule 2**

Repeal the sub-subparagraph, substitute:

(BA) Subclass 485 (Temporary Graduate);

**16 Subparagraph 573.312(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

(ia) Subclass 485 (Temporary Graduate);

**17 Subparagraph 574.211(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

(ia) Subclass 485 (Temporary Graduate);

**18 Sub-subparagraph 574.227(c)(iii)(BA) of Schedule 2**

Repeal the sub-subparagraph, substitute:

(BA) Subclass 485 (Temporary Graduate);

**19 Subparagraph 574.312(2)(d)(ia) of Schedule 2**

Repeal the subparagraph, substitute:

(ia) Subclass 485 (Temporary Graduate);

**20 Paragraph 855.212(4)(f) of Schedule 2**

Repeal the paragraph, substitute:

(f) a Subclass 485 (Temporary Graduate) visa.

**21 Paragraph 885.211(3)(b) of Schedule 2**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

**22 Paragraph 886.211(3)(b) of Schedule 2**

Omit “a Subclass 485 (Skilled — Graduate) visa”, substitute “a Subclass 485 (Temporary Graduate) visa”.

## **Schedule 3—Amendments relating to cancellation of student visas**

### ***Migration Regulations 1994***

#### **1 Paragraph 2.43(2)(aa)**

Omit “; and”, substitute “.”.

#### **2 Paragraph 2.43(2)(b)**

Repeal the paragraph.

## **Schedule 4—Amendments relating to Tribunals**

### ***Migration Regulations 1994***

#### **1 Subregulations 4.10(4), (5) and (6)**

Repeal the subregulations.

#### **2 Regulation 4.11**

Repeal the regulation, substitute:

##### **4.11 Giving the application to the Tribunal**

- (1) An application for review by the Tribunal must be given to the Tribunal by:
  - (a) leaving it with an officer of the Tribunal at a registry of the Tribunal, or with a person specified in a direction given by the Principal Member under section 353A of the Act; or
  - (b) sending the application by pre-paid post to a registry of the Tribunal; or
  - (c) having the application delivered by post, or by hand, to an address specified in a direction given by the Principal Member under section 353A of the Act; or
  - (d) faxing the application to a fax number specified in a direction given by the Principal Member under section 353A of the Act; or
  - (e) transmitting it to a registry of the Tribunal by other electronic means specified in a direction given by the Principal Member under section 353A of the Act.
- (2) An application made to the Tribunal in accordance with paragraph (1)(a) or (b) is taken to have been received by the Tribunal at the time the Tribunal receives it.
- (3) An application made to the Tribunal in accordance with paragraph (1)(c) is taken to have been received by the Tribunal at the time it is received at the relevant address.

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- (4) An application made to the Tribunal in accordance with paragraph (1)(d) is taken to have been received by the Tribunal at the time it is received at the relevant fax number.
  - (5) An application made to the Tribunal in accordance with paragraph (1)(e) is taken to have been received by the Tribunal at the time the Tribunal receives it.

### **3 Subregulations 4.17(2) to (5)**

Repeal the subregulations, substitute:

- (2) If the invitation relates to an application for review of a decision that applies to a detainee seeking review of a decision under subsection 338(4) of the Act, the prescribed period for giving the information or comments:
  - (a) commences when the detainee receives the invitation; and
  - (b) ends at the end of:
    - (i) 2 working days after the day the detainee receives the invitation; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- (3) If the invitation relates to an application for review of a decision that applies to a detainee who is not seeking review of a decision under subsection 338(4) of the Act, the prescribed period for giving the information or comments:
  - (a) commences when the detainee receives the invitation; and
  - (b) ends at the end of:
    - (i) 7 days after the day the detainee receives the invitation; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- (4) If the invitation relates to any other application for review of a decision, the prescribed period for giving the information or comments:
  - (a) commences when the person receives the invitation; and
  - (b) ends at the end of:
    - (i) 14 days after the day the person receives the invitation; or

- (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.

#### **4 Subregulations 4.18(2) to (5)**

Repeal the subregulations (not including the notes), substitute:

- (2) If the invitation relates to an application for review of a decision that applies to a detainee seeking review of a decision under subsection 338(4) of the Act, the prescribed period for giving the information or comments:
  - (a) commences when the detainee receives the invitation; and
  - (b) ends at the end of 2 working days after the day the detainee receives the invitation.
- (3) If the invitation relates to an application for review of a decision that applies to a detainee who is not seeking review of a decision under subsection 338(4) of the Act, the prescribed period for giving the information or comments:
  - (a) commences when the detainee receives the invitation; and
  - (b) ends at the end of 14 days after the day the detainee receives the invitation.
- (4) If the invitation relates to any other application for review of a decision, the prescribed period for giving the information or comments:
  - (a) commences when the person receives the invitation; and
  - (b) ends at the end of 28 days after the day the person receives the invitation.

#### **5 Subregulations 4.18A(2) to (5)**

Repeal the subregulations, substitute:

- (2) If the invitation relates to an application for review of a decision that applies to a detainee seeking review of a decision under subsection 338(4) of the Act, the period by which the Tribunal may extend the prescribed period:
  - (a) commences when the detainee receives notice of the extended period; and
  - (b) ends at the end of:
    - (i) 2 working days after the day the detainee receives notice of the extended period; or

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- (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
  - (3) If the invitation relates to an application for review of a decision that applies to a detainee who is not seeking review of a decision under subsection 338(4) of the Act, the period by which the Tribunal may extend the prescribed period:
    - (a) commences when the detainee receives notice of the extended period; and
    - (b) ends at the end of:
      - (i) 14 days after the day the detainee receives notice of the extended period; or
      - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
  - (4) If the invitation relates to any other application for review of a decision, the period by which the Tribunal may extend the prescribed period:
    - (a) commences when the person receives notice of the extended period; and
    - (b) ends at the end of:
      - (i) 14 days after the day the person receives notice of the extended period; or
      - (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.

## **6 Subregulations 4.18B(2) to (5)**

Repeal the subregulations (not including the notes), substitute:

- (2) If the invitation relates to an application for review of a decision that applies to a detainee seeking review of a decision under subsection 338(4) of the Act, the period by which the Tribunal may extend the prescribed period:
  - (a) commences when the detainee receives notice of the extended period; and
  - (b) ends at the end of 2 working days after the day the detainee receives notice of the extended period.
- (3) If the invitation relates to an application for review of a decision that applies to a detainee who is not seeking review of a decision

under subsection 338(4) of the Act, the period by which the Tribunal may extend the prescribed period:

- (a) commences when the detainee receives notice of the extended period; and
  - (b) ends at the end of 14 days after the day the detainee receives notice of the extended period.
- (4) If the invitation relates to any other application for review of a decision, the period by which the Tribunal may extend the prescribed period:
- (a) commences when the person receives notice of the extended period; and
  - (b) ends at the end of 14 days after the day the person receives notice of the extended period.

## **7 Regulation 4.21**

Repeal the regulation, substitute:

### **4.21 Prescribed periods—notice to appear before Tribunal**

- (1) For subsection 360A(4) of the Act, this regulation sets out the prescribed period of notice of the day on which, and the time and place at which, an applicant is scheduled to appear before the Tribunal in response to an invitation.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee seeking review of a decision under subsection 338(4) of the Act, the period of notice:
  - (a) commences when the detainee receives notice of the invitation to appear before the Tribunal; and
  - (b) ends at the end of:
    - (i) 2 working days after the day the detainee receives notice of the invitation to appear before the Tribunal; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- (3) If the invitation relates to an application for review of a decision that applies to a detainee who is not seeking review of a decision under subsection 338(4) of the Act, the period of notice:
  - (a) commences when the detainee receives notice of the invitation to appear before the Tribunal; and



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- (b) ends at the end of:
    - (i) 7 days after the day the detainee receives notice of the invitation to appear before the Tribunal; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
  - (4) If the invitation relates to any other application for review of a decision, the period of notice:
    - (a) commences when the person receives notice of the invitation to appear before the Tribunal; and
    - (b) ends at the end of:
      - (i) 14 days after the day the person receives notice of the invitation to appear before the Tribunal; or
      - (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- Note 1: If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.
- Note 2: A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

## **8 Regulation 4.27A**

Repeal the regulation.

## **9 Regulation 4.31**

Repeal the regulation, substitute:

### **4.31 Time for lodgement of application with Tribunal**

- (1) For paragraph 412(1)(b) of the Act, the period in which an application for review of an RRT-reviewable decision must be given to the Tribunal by or for an applicant who is in immigration detention on that day:
  - (a) commences on the day the applicant is notified of the decision to which the application relates; and
  - (b) ends:
    - (i) if that day is a working day—at the end of 7 working days commencing on that day; or

- (ii) if that day is not a working day—at the end of 7 working days commencing on the next working day.
  - (2) For paragraph 412(1)(b) of the Act, the period in which an application for review of an RRT-reviewable decision must be given to the Tribunal by or for an applicant who is not in immigration detention on that day:
    - (a) commences on the day the applicant is notified of the decision to which the application relates; and
    - (b) ends at the end of 28 days commencing on that day.
- Note: If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

#### **4.31AA Giving application to the Tribunal**

- (1) An application for review by the Tribunal of an RRT-reviewable decision must be given to the Tribunal by:
  - (a) leaving it with an officer of the Tribunal at a registry of the Tribunal, or with a person specified in a direction given by the Principal Member under section 420A of the Act; or
  - (b) sending it by pre-paid post to a registry of the Tribunal; or
  - (c) having it delivered by post, or by hand, to an address specified in a direction given by the Principal Member under section 420A of the Act; or
  - (d) faxing it to a fax number specified in a direction given by the Principal Member under section 420A of the Act; or
  - (e) transmitting it to a registry of the Tribunal by other electronic means specified in a direction given by the Principal Member under section 420A of the Act.
- (2) An application made to the Tribunal in accordance with paragraph (1)(a) or (b) is taken to have been received by the Tribunal at the time the Tribunal receives it.
- (3) An application made to the Tribunal in accordance with paragraph (1)(c) is taken to have been received by the Tribunal at the time it is received at the relevant address.

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- (4) An application made to the Tribunal in accordance with paragraph (1)(d) is taken to have been received by the Tribunal at the time it is received at the relevant fax number.
  - (5) An application made to the Tribunal in accordance with paragraph (1)(e) is taken to have been received by the Tribunal at the time the Tribunal receives it.

## **10 Regulation 4.32**

Repeal the regulation.

## **11 Regulation 4.35**

Repeal the regulation, substitute:

### **4.35 Prescribed periods—invitation to comment or give additional information**

- (1) This regulation applies, for subsection 424B(2) of the Act, if a person is invited to give additional information, or to comment on information, other than at an interview.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the prescribed period for giving the information or comments:
  - (a) commences when the detainee receives the invitation; and
  - (b) ends at the end of:
    - (i) 7 days after the day the detainee receives the invitation; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- (3) If the invitation relates to any other application for review of a decision, the prescribed period for giving the information, comments or response:
  - (a) commences when the person receives the invitation; and
  - (b) ends at the end of:
    - (i) 14 days after the day the person receives the invitation; or
    - (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.

- (4) A response to the invitation is taken to be given to the Tribunal when a registry of the Tribunal receives the response.

Note 1: If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2: A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

## **12 Subregulations 4.35B(2) and (3)**

Repeal the subregulations, substitute:

- (2) The period by which the Tribunal may extend the prescribed period:
- (a) commences when the person receives notice of the extended period; and
  - (b) ends at the end of:
    - (i) 14 days after the day the person receives notice of the extended period; or
    - (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.

## **13 Subregulation 4.35C(2)**

Repeal the subregulation (not including the notes), substitute:

- (2) The period by which the Tribunal may extend the prescribed period:
- (a) commences when the person receives notice of the extended period; and
  - (b) ends at the end of 14 days after the day the person receives notice of the extended period.

## **14 Regulation 4.35D**

Repeal the regulation, substitute:

### **4.35D Prescribed periods—notice to appear before Tribunal**

- (1) For subsection 425A(3) of the Act, this regulation sets out the prescribed period of notice of the day on which, and the time and place at which, an applicant is scheduled to appear before the Tribunal in response to an invitation.

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- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the period of notice:
- (a) commences when the detainee receives notice of the invitation to appear before the Tribunal; and
  - (b) ends at the end of:
    - (i) 7 days after the day the detainee receives notice of the invitation to appear before the Tribunal; or
    - (ii) if the detainee agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- (3) If the invitation relates to any other application for review of a decision, the period of notice:
- (a) commences when the person receives notice of the invitation to appear before the Tribunal; and
  - (b) ends at the end of:
    - (i) 14 days after the day the person receives notice of the invitation to appear before the Tribunal; or
    - (ii) if the person agrees, in writing, to a shorter period of not less than 1 working day—the shorter period.
- Note 1: If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.
- Note 2: A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

## **15 Regulation 4.35E**

Repeal the regulation.

## Schedule 5—Amendments relating to migration agents

### *Migration Agents Regulations 1998*

#### **1 Subregulation 3(1) (definition of *approved activity*)**

Repeal the definition, substitute:

*approved activity* means an activity approved by the Minister under subregulation 9E(1).

#### **2 Subregulation 3(1)**

Insert:

*approved provider* means a person approved by the Minister under subregulation 9H(1).

#### **3 Subregulation 3(1)**

Insert:

*suitable mentoring arrangement* means an arrangement between 2 registered migration agents under which one of the agents provides mentoring to the other agent about practice as a registered migration agent.

#### **4 Subregulation 3(1)**

Insert:

*voluntary organisation* means an organisation that provides immigration assistance without charging a fee.

Note: Examples of voluntary organisations are:

- (a) a non-profit immigration advice organisation; and
- (b) a migrant resource centre; and
- (c) an ethnic community organisation.

#### **5 Regulation 6A**

Repeal the regulation.

#### **6 After Part 3**

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Insert:

## **Part 3A—Approved activities**

### **9E General**

- (1) The Minister:
  - (a) may approve an activity as an ***approved activity*** in relation to the continuing professional development of registered migration agents; and
  - (b) may revoke the approval of an activity if the Minister is satisfied that there is, or there is no longer, any basis on which the activity could be approved.
- (2) The Minister may consider approving an activity:
  - (a) at the request of the provider of the activity; or
  - (b) on the Minister's initiative.
- (3) An activity must relate specifically to one or more of the following:
  - (a) the *Migration Act 1958*;
  - (b) the *Migration Regulations 1994*;
  - (c) other legislation relating to migration procedure;
  - (d) portfolio policies and procedures;
  - (e) the application of paragraphs (a), (b), (c) and (d) to a registered migration agent's practice;
  - (f) a topic of a legal or business nature that is relevant to a registered migration agent's practice as a registered migration agent.
- (4) An activity may include one or more of the following:
  - (a) a program of education that is:
    - (i) conducted by a person who is, or persons who are, qualified by practical experience or academic qualifications in the subject matter of the course; and
    - (ii) comprehensive or refresher training;
  - (b) distance learning, which:

- (i) may include the collective or private study of written material or live or recorded material in electronic form; and

- (ii) may or may not require a facilitator;

Note: Examples for paragraph (b) are:

- (a) participation in a web-based seminar; and
  - (b) watching live streaming or a recorded event; and
  - (c) participation in video conferencing.
- (c) attendance at a seminar, workshop, conference or lecture that is conducted by a person who is, or persons who are, qualified by practical experience or academic qualifications in the subject matter of the activity;
  - (d) authorship and publication of an article of at least 1,000 words;
  - (e) preparation or presentation of written or oral material for the purposes of paragraph (a), (b) or (c), or for use in an examination that demonstrates competency as a registered migration agent;
  - (f) authorship, shared authorship or editorship of a book;
  - (g) providing immigration assistance without charge for a voluntary organisation;
  - (h) participation in a suitable mentoring arrangement;
  - (i) any other activity, specified by the Minister in an instrument in writing for this paragraph, for the purpose of meeting continuing professional development requirements.
- (5) If a registered migration agent commences an approved activity before the approval of the activity is revoked under paragraph (1)(b), the revocation is taken not to apply in relation to the registered migration agent.

## **9F Assessment before decision**

- (1) If the Minister:
  - (a) considers approving an activity at the request of the provider of the activity; and
  - (b) assesses the activity;the Minister may charge the provider a fee, specified by the Minister in an instrument in writing for this subregulation, for performing the assessment.



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- (2) If the Minister:
- (a) considers approving an activity otherwise than at the request of the provider of the activity; and
  - (b) assesses the activity; and
  - (c) specifies the activity as an approved activity;
- the Minister may charge the provider a fee, specified by the Minister in an instrument in writing for this subregulation, for performing the assessment.

## **9G Decision**

- (1) In deciding whether or not to approve an activity, the Minister may take the following into account:
- (a) whether he or she is satisfied that:
    - (i) the activity will help improve the professionalism of each participant in the approved activity as a registered migration agent, including the participant's knowledge of migration procedures, professional ethics and relevant skills; and
    - (ii) the provider of the activity has a way of ensuring that the activity will achieve the outcome mentioned in subparagraph (i); and
    - (iii) the delivery of the activity is focussed on the achievement of the outcome mentioned in subparagraph (i);
  - (b) whether the activity would meet the requirements for registration to practise in another profession, including:
    - (i) mandatory continuing legal education for legal practitioners; or
    - (ii) continuing professional education for accountants;
  - (c) whether the provider of the activity has agreed, in writing, to comply with standards for the provision of professional development activities approved by the Minister by instrument in writing for this paragraph;
- Note: When paragraph (c) commenced, the standards were set out in the document known as *CPD Approved Provider Standard Conditions*, published by the Authority.
- (d) whether the provider of the activity has complied with the requirement to give information in relation to other activities;

- (e) the character and reputation, or a doubt about the character and reputation, of a person connected with the activity.
- (2) Without limiting subregulation (1), the following persons are taken to be connected with an activity:
  - (a) a person who conducts, produces, writes or presents material for it;
  - (b) a person concerned in the management of a company or a body of persons that conducts, produces, writes or presents material for it;
  - (c) a person who has been appointed as a consultant to advise a person mentioned in paragraph (a) or (b) about the activity.
- (3) If the Minister approves an activity under paragraph 9E(1)(a):
  - (a) the Authority must include the activity in a publicly available list of approved activities maintained on the Authority's website; and
  - (b) the list must include:
    - (i) the name of the activity; and
    - (ii) the number of points for the activity; and
    - (iii) the provider (if any) of the activity; and
  - (c) the list may set requirements for completion of the activity.

Note 1: Paper copies of the list will be made available from the Authority on request.

Note 2: Examples for paragraph (c) are:

  - (a) a minimum mark for an examination; and
  - (b) a requirement that the quality of a presentation be certified by qualified persons; and
  - (c) journals in which a publication must appear; and
  - (d) a requirement that the quality of work for an activity be assessed in a particular way; and
  - (e) a requirement dealing with work for an activity undertaken jointly with another person.
- (4) If the Minister:
  - (a) considers approving an activity as an approved activity at the request of the provider of the activity or the Authority; and
  - (b) decides not to approve the activity;the Minister must notify the provider and the Authority of the decision as soon as practicable.

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## **Part 3B—Approved providers of approved activities**

### **9H General**

- (1) The Minister:
  - (a) may approve a person as an ***approved provider*** of an approved activity; and
  - (b) may revoke the person's approval if the person fails to comply with the conditions to which the approval is subject.

Note: ***Person*** includes an individual and other persons such as a business entity.

- (2) The Minister may consider approving a person only on application by the person.

### **9J Assessment before decision**

If the Minister:

- (a) considers approving a person as an approved provider; and
- (b) assesses the person;

the Minister may charge the person a fee, specified by the Minister in an instrument in writing for this regulation, for performing the assessment.

### **9K Decision**

- (1) In deciding whether or not to approve a person as an approved provider, the Minister may take the following into account:
  - (a) whether he or she is satisfied that:
    - (i) the person has a way of ensuring that the approved activity will help improve the professionalism of each participant in the approved activity as a registered migration agent, including the participant's knowledge of migration procedures, professional ethics and relevant skills; and
    - (ii) the person's delivery of the approved activity will be focussed on the achievement of the outcome mentioned in subparagraph (i);

- (b) whether the person is qualified by practical experience or academic qualifications in the subject matter of the approved activity;
- (c) whether the person has agreed, in writing, to comply with standards for the provision of professional development activities approved by the Minister by instrument in writing for this paragraph;
- (d) if the person has previously been an approved provider—whether the person complied with the requirement to give information in relation to other activities;
- (e) the character and reputation, or a doubt about the character and reputation, of:
  - (i) the person; and
  - (ii) a person connected with the person in the conduct of an approved activity.

Note: When paragraph (c) commenced, the standards were set out in the document known as *CPD Approved Provider Standard Conditions*, published by the Authority.

- (2) Without limiting subregulation (1), the following persons are taken to be connected with a person in the conduct of an approved activity:
  - (a) a person who conducts, produces, writes or presents material for it;
  - (b) a person concerned in the management of a company or a body of persons that conducts, produces, writes or presents material for it;
  - (c) a person who has been appointed as a consultant to advise a person mentioned in paragraph (a) or (b) about the activity.
- (3) If the Minister approves a person as an approved provider, the Authority must include the person's name in a publicly available list of approved providers maintained on the Authority's website.
- (4) If the Minister decides not to approve a person as an approved provider, the Minister must notify the person and the Authority of the decision as soon as practicable.

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**9L Conditions of approval**

The approval of a person as an approved provider is subject to the person's compliance with:

- (a) the standards for the provision of professional development activities approved by the Minister by instrument in writing for paragraph 9G(1)(c); and
- (b) any other conditions specified by the Minister in the approval.

Note: When paragraph (a) commenced, the standards were set out in the document known as *CPD Approved Provider Standard Conditions*, published by the Authority.

**7 Clause 1 of Schedule 1**

Repeal the clause, substitute:

1. (1) A registered migration agent must, in the 12 months immediately before the day the agent applies for repeat registration, complete approved activities that have a value of at least 10 points.
- (2) However, if:
  - (a) a registered migration agent applies for repeat registration on a day (the ***application day***); and
  - (b) the agent did not complete approved activities that have a value of at least 10 points in the 12 months immediately before the application day; and
  - (c) no later than 3 months after the application day, but before the Authority makes a decision on the application, the agent completes approved activities of a value sufficient to produce at least 10 points when added to the agent's points for the 12 months immediately before the application day; and
  - (d) the Authority is satisfied that the agent did not complete the approved activities before the application day because of exceptional circumstances beyond the agent's control;the agent is taken to have met the requirements of this clause.

**8 Clauses 2 and 3 of Schedule 1**

Repeal the clauses.

**9 Clauses 6 and 7 of Schedule 1**

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Repeal the clauses.

#### **10 Clause 7A of Schedule 1**

Omit “The Authority may declare that specified activities up to the value of 4 points are mandatory for:”, substitute “The Minister may, by instrument in writing, declare that specified activities, up to the value specified by the Minister by instrument in writing for this clause, are mandatory for:”.

#### **11 Clause 7B of Schedule 1**

Repeal the clause, substitute:

- 7B. The Minister may, by instrument in writing, declare that specified activities, up to the value specified by the Minister by instrument in writing for this clause, are assessable for:
- (a) certain registered migration agents in a particular year of registration; or
  - (b) all registered migration agents in any year of registration.

#### **12 Clauses 8 to 10 of Schedule 1**

Repeal the clauses.

#### **13 Clause 11 of Schedule 1**

Repeal the clause, substitute:

11. A registered migration agent who claims an activity under paragraph 9E(4)(g) in relation to a voluntary organisation that is an approved provider must:
- (a) undertake the activity outside the agent’s normal employment; and
  - (b) obtain a statement by a person in the voluntary organisation:
    - (i) stating that the work relating to the activity has been completed; and
    - (ii) setting out the number of hours worked; and
  - (c) show the statement to the Authority on request.

#### **14 At the end of Part 5**

Add:

**Division 2—Amendments made by the Migration  
Legislation Amendment Regulation 2013 (No. 1)**

**13 Operation of amendments**

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for repeat registration made on or after 23 March 2013.

## **Schedule 6—Amendments relating to transitional arrangements**

### ***Migration Regulations 1994***

#### **1 At the end of Schedule 13**

Add:

### **Part 13—Amendments made by the Migration Legislation Amendment Regulation 2013 (No. 1)**

#### **1301 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 1 and 2 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for review to the Migration Review Tribunal made on or after 1 July 2013.
- (2) The amendments of these Regulations made by items 3 and 4 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for review to the Refugee Review Tribunal made on or after 1 July 2013.

#### **1302 Operation of Schedule 2**

- (1) The amendments of these Regulations made by items 1 to 5 and 8 to 22 of Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for a visa made on or after 23 March 2013.
- (2) The amendments of these Regulations made by items 6 and 7 of Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before 23 March 2013; or



(b) made on or after 23 March 2013.

### **1303 Operation of Schedule 3**

- (1) The repeal of subparagraph 2.43(2)(b)(i) by item 2 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* does not apply in relation to a person who:
  - (a) holds a student visa; and
  - (b) was sent a notice of proposed cancellation of the visa under section 119 of the Act for non-compliance with visa condition 8104 or 8105 before 13 April 2013.
- (2) The repeal of subparagraph 2.43(2)(b)(ii) by item 2 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* does not apply in relation to a person who:
  - (a) holds a student visa; and
  - (b) was sent:
    - (i) a notice of proposed cancellation of the visa under section 119 of the Act for non-compliance with visa condition 8202 before 13 April 2013; or
    - (ii) a notice under section 20 of the *Education Services for Overseas Students Act 2000* for non-compliance with visa condition 8202 in relation to the visa.

### **1304 Operation of Schedule 4**

- (1) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application to the Migration Review Tribunal or the Refugee Review Tribunal if the decision to which the application relates is made on or after 1 July 2013.
- (2) If:
  - (a) an application to the Migration Review Tribunal or the Refugee Review Tribunal was made before 1 July 2013; and
  - (b) on or after 1 July 2013, the tribunal issues a notice to appear, or an invitation to provide comments or information, in relation to the application;the amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* also apply in relation to the issue of the notice or invitation.

(3) If:

- (a) an application to the Migration Review Tribunal or the Refugee Review Tribunal was made before 1 July 2013; and
- (b) on or after 1 July 2013, the tribunal extends a period of time in relation to the application;

the amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* also apply in relation to the extension of time.