EXPLANATORY STATEMENT

Select Legislative Instrument No. 103, 2015

Issued by the Minister for Immigration and Border Protection

Migration Act 1958

Australian Citizenship Act 2007

Customs Act 1901

Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015

Subsection 504(1) of the *Migration Act 1958* (the Migration Act), Section 54 of the *Australian Citizenship Act 2007* (the Citizenship Act) and Section 270 of the *Customs Act 1901*(the Customs Act) (Principal Acts) in effect provide that the Governor-General may make regulations prescribing matters required or permitted by the relevant Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Principal Acts.

In addition, regulations may be made pursuant to the provisions of the Migration Act, the Citizenship Act and the Customs Act detailed in Attachment A.

The purpose of the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* (the Regulation) is to amend the *Migration Regulations 1994* (the Migration Regulations), the *Migration Agents Regulations 1998* (the Migration Agents Regulations), the *Australian Citizenship Regulations 2007* (the Citizenship Regulations) and the *Customs Regulation 2015* (the Customs Regulation) to strengthen and update immigration, citizenship and customs policy.

In particular, the Regulation amends the Migration Regulations to:

- reform the visa framework for victims of human trafficking, slavery and slavery-like practices who are assisting in the administration of criminal justice in Australia. The amendments move this cohort out of the Criminal Justice Stay visa framework and onto a visa catering specifically for trafficked persons (Bridging Visa F). The amendments also change the name of the Witness Protection (Trafficking) visa to the Referred Stay visa to avoid stigmatization. The reforms facilitate better-targeted support and access to benefits;

- support the introduction of Schedule 6 to the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014* by prescribing the kinds of aircraft and ships to which Division 12B of the *Migration Act 1958* applies and the timeframes in which reports under Division 12B need to be made. Division 12B is about reporting on the passengers and crew of aircraft and ships which are arriving in or departing from Australia;

- provide for a new legislative instrument making power to allow the Minister to specify, in an instrument, the occupations eligible for the Direct Entry stream for the Subclass 187 (Regional Sponsored Migration Scheme) visa;

- increase the first instalment of the visa application charge (VAC) for some visa categories by Consumer Price Index (2.3 per cent) while also increasing some economic related visas by 5 per cent, family related visas by 10 per cent and significant investor visa by 50 per cent. This measure also harmonises VACs for some visa categories by creating a uniform price point for onshore and offshore visa applications and supports a 2015-16 Budget measure; and

- make technical amendments to correct typographical errors and update references.

The Regulation amends the Migration Regulations and the Migration Agents Regulations to:

- remove references to the Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT), and make other consequential changes, to reflect the fact that those tribunals cease to exist on 1 July 2015 and their jurisdiction is transferred to the Administrative Appeals Tribunal (AAT). In particular, the Regulation replaces references to the MRT and RRT with references to the AAT; makes consequential changes to terminology to give effect to the changes to the Migration Act and *Administrative Appeals Tribunal Act 1975* made by the *Tribunals Amalgamation Act 2015*; and omits redundant provisions.

The Regulation amends the Citizenship Regulations to:

- provide a nil fee for applications to replace evidence of Australian Citizenship where it was lost, destroyed or damaged in a natural disaster (providing the natural disaster is listed on the Department of Immigration and Border Protection website and the application is made within 18 months); and

- make routine changes to update the foreign countries, foreign currencies and exchange rates in which Citizenship application fees can be paid.

The Regulation amends the Customs Regulation to:

- add Sunshine Coast (Maroochydore) Airport and Townsville Airport to the definition of 'international airport' in section 4 of the Customs Regulation.

A Statement of Compatibility with Human Rights (the Statement) has been completed, in accordance with *Human Rights (Parliamentary Scrutiny) Act 2011*, for each of the Schedules to the Regulation. The Statement's overall assessment is that the Regulation is compatible with human rights. A copy of the Statement is at Attachment B.
The Office of Best Practice Regulation (the OBPR) has been consulted in relation to the amendments made by the Regulation. The OBPR considers that the changes in

Schedules 1, 2, 3, 4, 5, 6 and 8 have a minor impact on business or the not-for-profit sector and no further analysis (in the form of a Regulation Impact Statement (RIS)) is required. In relation to Schedule 7, the department is still consulting with OBPR about the amendments. If a RIS is required, it will be tabled as soon as practicable after it is finalised. In relation to Schedule 9, the amendments have no regulatory impact so consultation with OBPR was not required. The OBPR consultation references are as follows:

- 18256 (Schedule 1);
- 17949 (Schedule 2);
- 18318 (Schedule 3);
- 18317 (Schedule 4);
- 17847 (Schedule 5);
- 19920 (Schedule 6); and
- 18054 (Schedule 7 and 8);

In relation to the amendments made by Schedule 1, consultation was undertaken with the Attorney-General's Department, the Australian Federal Police, the Department of Social Services and the Department of Human Services. No further consultation was necessary as this instrument does not substantially alter existing arrangements. This accords with a circumstance where consultation may not be necessary under section 18 of the *Legislative Instrument Act 2003* (Instruments Act).

In relation to the amendments made by Schedule 2, the department has consulted with the aviation industry; the Board of Airline Representatives Australia; Australian airport corporations via the National Traveller Facilitation Committee; cruise shipping industry members via the National Sea Passenger Facilitation Committee, and the Department of Infrastructure and Regional Development.

In relation to the amendments made by Schedules 3, 4 and 5, no further consultation was necessary as the amendments are minor or machinery nature and do not substantially alter existing arrangements. This accords with a circumstance where consultation may not be necessary under section 18 of the Instruments Act.

In relation to the amendments made by Schedule 6, the relevant merits review tribunals and the Attorney-General's Department were consulted in relation to the amendments made by the Regulation.

In relation to the amendments made by Schedule 7 to 9, no further consultation was undertaken for this Regulation because the amendments are minor in nature and do not substantially alter existing arrangements. This accords with a circumstance where consultation may not be necessary under section 18 of the Instruments Act. Further, the amendments made by Schedule 7 are in accordance with the Government's decision as part of the 2015-16 Budget.

The Migration Act, Citizenship Act and Customs Act specify no conditions that need to be satisfied before the power to make the Regulation may be exercised.

Details of the Regulation are set out in Attachment C.

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

The Regulation commences on 1 July 2015.

ATTACHMENT A

AUTHORISING PROVISIONS

Subsection 504(1) of the *Migration Act 1958* (the Migration Act) relevantly provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing all matters which by the Migration 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 Migration Act.

In addition, the following provisions of the Migration Act may apply:

- subsection 5(1) of the Migration Act, which provides that the term "tribunal" means the AAT;

- subsection 31(3) of the Migration Act, which provides that the *Migration Regulations 1994* (the Migration Regulations) may prescribe criteria for a visa or visas of a specified class;

- Subsection 40(1) of the Migration Act provides that the Migration Regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;

- Subsection 41(1) of the Migration Act provides that the Migration Regulations may provide that visas, or visas of a specified class, are subject to specified conditions;

- section 45A of the Migration Act, which provides that a non-citizen who makes an application for a visa is liable to pay a visa application charge if, assuming the charge were paid, the application would be a valid visa application;

- subsection 45B(1) of the Migration Act, which provides that the amount of the visa application charge is the amount, not exceeding the visa application charge limit, prescribed in relation to the application. The visa application charge limit is determined under the *Migration (Visa Application) Charge Act 1997* (the VAC Act); and

- section 45C of the Migration Act, which deals with regulations about the visa application charge. In particular:

    - subsection 45C(1) of the Migration Act, which provides that the Migrations Regulations may provide that the visa application charge may be payable in instalments, and specify how those instalments are to be calculated and when instalments are payable; and

    - paragraph 45C(2)(a) of the Migration Act, which relevantly provides that the Migration Regulations may make provision for

and in relation to various matters, including the recovery of the visa application charge in relation to visa applications and the way, including the currency, in which visa application charge is to be paid;

- subsection 46(1) of the Migration Act, which relevantly provides that, subject to subsections 46(1A), (2) and (2A), an application for a visa is valid if, and only if it is for a visa of a class specified in the application;

- subsection 46(3) of the Migration Act, which provides that the Migration 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 Migration Act, which provides that the Migration Regulations may also prescribe:

    - the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
    - how an application for a visa of a specified class must be made; and
    - where an application for a visa of a specified class must be made; and
    - where an applicant must be when an application for a visa of a specified class is made;

- paragraph 72(1)(b) of Subdivision AF of the Migration Act provides that an *eligible non-citizen* means a non-citizen who is in a prescribed class of persons.

- Subsection 140E(2) of the Migration Act, which provides that different criteria may be prescribed for different kinds of visa (however described);

- Subsection 140GB(3) of the Migration Act, which provides that the Migration Regulations may establish a process for the Minister to approve a sponsor's nomination;

- the definition of 'kind of aircraft or ship to which this division applies' in subsection 245I(1) of the Migration Act, which provides that this definition means a kind of aircraft or ship specified in the Migration Regulations as a kind of aircraft or ship to which Division 12B of the Migration Act applies;

- paragraph 245L(5)(a) of the Migration Act, which provides that a report on passengers or crew on a ship must be given not later than the start of the prescribed period before the ship's estimated time of arrival at the place in Australia;

- paragraph 245L(5)(b) of the Migration Act, which provides that if the journey is of a kind prescribed in the Migration Regulations made for the purposes of paragraph 245L5(b), a report on passengers or crew on a ship must be given not later than the start of the shorter period specified in those regulations before the

ship's estimated time of arrival at the place in Australia;

- subsection 245LA(2) of the Migration Act, which provides that the operator of the aircraft or ship must:
    - report to the Department, using the approved primary reporting systems for passengers, on each passenger who is on, or is expected to be on, the flight or voyage (including any part of the flight or voyage); and
    - report to the Department, using the approved primary reporting system for crew, on each member of the crew who is on, or is expected to be on, the flight or voyage (including any part of the flight or voyage);
- paragraph 245LA(3)(b) of the Migration Act, which provides that if the Migration Regulations prescribe a report under subsection 245LA(2) must only relate to the part of the flight or voyage that is from the last place in Australia to the place outside Australia, then the report must be on each passenger or crew member who is on, or is expected to be on, that part of the flight or voyage;
- subsection 245LA(5) of the Migration Act, which provides that a report on a passenger or crew member under subsection 245LA(2) must be provided:
    - if the Migration Regulations prescribe a period or periods before the aircraft's or ship's departure from a place for the giving of a report under subsection (2) in relation to the passenger or crew member – not later than the start of that period or each of those periods; and
    - if the Migration Regulations prescribe an event or events for the giving of a report under subsection 245LA(2) in relation to the passenger or crew member- at the time of that event or each of those events; and
    - if the Migration Regulations prescribe a time or times for the giving of a report under subsection 245LA(2) in relation to the passenger or crew member – at that time or each of those times;
- section 275 of the Migration Act which, for the purpose of regulating migration agents, defines 'review authority' as meaning the AAT in reviewing a Part 5-reviewable decision, or the AAT in reviewing a Part 7-reviewable decision;
- section 338 of the Migration Act which defines '*Part 5-reviewable decision*';
- section 347 of the Migration Act which provides for applications for review of Part 5-reviewable decisions;
- section 411 of the Migration Act which defines '*Part 7-reviewable decision*';
- section 412 of the Migration Act which provides for applications for review of Part 7-reviewable decisions; and
- Section 500 of the Migration Act which provides for review of certain decisions by the Administrative Appeals Tribunal.

In addition, the following provisions of the VAC Act may also apply:

- section 4, which imposes a visa application charge payable under section 45A of the Migration Act; and

- section 5, which limits the visa application charge and provides the formula to calculate the charge limit for later financial years.

Section 54 of the *Australian Citizenship Act 2007* (the Citizenship Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Citizenship Act to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to the Citizenship Act.

In addition, the following provisions of the Citizenship Act may apply:

- paragraph 46(1)(d) of the Citizenship Act, which provides that an application made under a provision of that Act must be accompanied by the fee (if any) prescribed by the *Australian Citizenship Regulations 2007* (the Citizenship Regulations); and

- subsection 46(3) of the Citizenship Act, which provides that the Citizenship Regulations may make provision for and in relation to the remission, refund or waiver of any fees of a kind referred to in paragraph 46(1)(d) of the Citizenship Act; and

Section 270 of the *Customs Act 1901* (the Customs Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Customs Act prescribing all matters which by the Customs Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to the Customs Act.

In addition, the following provisions of the Customs Act may apply:

- subsection 28(1) of the Customs Act, which provides that the Citizenship Regulations may prescribe the days (which may include Sundays or holidays) on which, and the hours on those days (which may be different hours on different days) between which, officers are to be available to perform a specified function in every State or Territory, in a specified State or Territory or otherwise than in a specified State or Territory;

- subsection 28(2) of the Customs Act, which provides that if, at the request of a person, a Collector arranges for an officer to be available to perform a function at a place outside the hours prescribed for that function, the person must pay to Customs an overtime fee;

- subsection 28(3) of the Customs Act, which provides that the overtime fee in relation to the officer is:
(a) $40 per hour or part hour during which the officer performs that function and engages in any related travel, or such other rate as is prescribed; and

(b) any prescribed travel expense (at the rate prescribed) associated with the officer performing that function at that place; and

- subsection 28(4) of the Customs Act, which provides that if, at the request of a person, a Collector arranges for an officer to be available to perform a function:
  (a) at a place that is not a place at which such a function is normally performed; and
  (b) during the hours prescribed for that function, the person must pay to Customs a location fee; and

- subsection 28(5) of the Customs Act, which provides that the location fee in relation to the officer is:
  (a) $37 per hour or part hour during which the officer performs that function and engages in any related travel, or such other rate as is prescribed; and
  (b) any prescribed travel expense (at the rate prescribed) associated with the officer performing that function at that place.

ATTACHMENT B

Statement of Compatibility with Human Rights

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

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 relating to Bridging F and Referred Stay visas**

Overview of the Schedule

Schedule 1 to the Regulation is designed to strengthen and streamline visa processes for victims of human trafficking.

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

- introduce a streamlined and simplified pathway to allow victims of trafficking to participate in the administration of criminal justice;
- restructure the Bridging F (subclass 060) visa (BVF) to provide a simpler, more appropriate visa for this cohort with greater access to services and benefits;
- provide the foundation to offer specifically targeted support services to this cohort, such as the Adult Migrant English Programme, that cannot be extended to victims on a Criminal Justice Stay (Subclass 951) visa (CJSV); and
- rename the 'Witness Protection (Trafficking) (Permanent) (DH) visa' (WPTV) to the 'Referred Stay (Permanent) (DH) visa' to address concerns of stigmatisation.

Redesigning the BVF will obviate the need to use the CJSV for trafficked people, as concerns have been raised that the name of this visa is also stigmatising. The amendments also complement the Government's agenda by eliminating the use of CJSVs for victims of trafficking.

Human rights implications

Right to freedom from slavery and forced labour

Article 8 of the International Covenant on Civil and Political Rights (ICCPR) provides in part:

1. *No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.*
2. *No one shall be held in servitude.*
3. *a) No one shall be required to perform forced or compulsory labour…*

The amendments to the BVF will provide an exclusive visa class and subclass for the cohort of people who are victims or suspected victims of human trafficking, slavery or

slavery-like practices (human trafficking). The restructuring of the BVF will remove the need for victims of human trafficking to be granted a CJSV in the future, which is currently the visa granted to all persons assisting the Australian Government with the administration of criminal justice in relation to an offence against a law of the Commonwealth (including those suspected of committing crimes). The redesigned BVF will incorporate similar criteria and the same benefits as the CJSV, but will also provide access to additional support services such as access to the Adult Migrant English Programme.

The amendments ensure that victims of human trafficking are extended access to health and income support services so that they may rest and recover from trauma and be supported during their assistance in the administration of criminal justice.

Renaming the WPTV, the permanent visa for human trafficking victims, and redesigning the BVF addresses concerns which have been raised by non-government organisations that the visa names may stigmatise visa holders. Hence, the amendments are compatible with Article 8 of the ICCPR and advance human rights by providing human trafficking victims with greater access to benefits.

Conclusion

The amendments advance the protection of human rights and are compatible with human rights for the reasons outlined above.

- **Schedule 2 – Amendments relating to reporting on departing passengers and crew**

Overview of the Schedule

In January 2003, Australia introduced mandatory Advance Passenger Processing (APP). Under these arrangements, international passenger aircraft and international passenger cruise ships must provide the Department of Immigration and Border Protection with information on all travellers (passengers and crew), including all transit passengers travelling to Australia. This information is collected at check-in through an approved reporting system (the APP system). The data transmitted to Australia is cross-checked against Australia's immigration databases. APP enhances Australia's border security as it confirms that a traveller has the authority to travel to Australia APP prior to the passenger boarding a flight. APP data is also transmitted to Australia for the use by border agencies prior to the arrival of the aircraft.

For travellers arriving in Australia, Division 12B of Part 2 of the *Migration Act 1958* (the Migration Act) currently provides the legislative authority to require international airlines and international cruise ships to provide APP data through the APP system Failure to comply with these reporting obligations is an offence. Infringement notices may be issued to an operator for an offence and an operator receiving and infringement notice may choose to pay a prescribed penalty to avoid prosecution.

Schedule 6 to the *Counter Terrorism Legislation Amendment (Foreign Fighters) Act 2014* (the Foreign Fighters Act), amended the Migration Act to create a requirement on operators to provide APP data for all travellers *departing* Australia.

The purpose of the amendments in Schedule 2 is to give effect to the framework for Outwards APP to improve the integrity of the border by increasing the amount of information available to the Department when assessing the risk presented by travellers departing Australia and providing a longer time frame for the Department to assess that risk than is currently available.

APP for departing travellers will also provide greater administrative efficiency in automating departure processing, streamlining the experience for international travellers leaving Australia, and improving identity management.

The amendments are intended to create a requirement on operators of international passenger aircraft and international passenger cruise ships to provide information to the department, at specified points prior to departure, on who will be travelling outside Australia on their vessels

Human rights implications

The amendments in Schedule 2 provide the definition of *'kind of aircraft or ship to which this Division applies'* and ensures that Division 12B of part 2 of the Migration Act applies to both departing and arriving vessels. The amendments also indicate the point at which the carrier must have completed the reporting obligations via the APP System. Failure to do so will result in the carrier breaching s245L or s245LA of the *Migration Act 1958*, rendering them liable for penalty under the s245N of the Migration Act.

Freedom from arbitrary and unlawful interferences with privacy in Article 17 of the International Covenant on Civil and Political Rights (ICCPR) and Article 16 of the Convention on the Rights of the Child (CRC)

As this measure relates to the collection of personal information of citizens and non-citizens for the purposes of reporting on persons departing from Australia, these measures engage Article 17 of the ICCPR and Article 16 of the CRC.

Article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with their privacy. Article 16 of the CRC is written in similar terms to Article 17 of the ICCPR and prohibits the unlawful or arbitrary interference with the privacy of a child.

To the extent that these measures may interfere with the privacy of citizens and non-citizens (adults and children), such interference will be lawful by virtue of these legislative amendments.

Further, any collection, storage and disclosure of information pursuant to the amendments will be undertaken in accordance with the Australian Privacy Principles contained in the Commonwealth *Privacy Act 1988*. In particular, the measure explicitly lists purposes for which the use or disclosure of personal information under Division 12B is authorised by law. This is also consistent with the United Nations Human Rights Committee General Comment 16 in which the Committee states that the gathering and holding of personal information using information technology must be regulated by law and that effective measures must be taken to ensure that the information collected is not

accessed by persons who are not authorised by law to receive, process or use it. Part 4A of the Migration Act outlines officers' obligations relating to identifying information including the manner in which officers are authorised to access and disclose information.

In addition to requiring a lawful basis for interference, Article 17 prohibits *arbitrary* interference with privacy. Lawful interferences with privacy may nonetheless be arbitrary where those interferences are not in accordance with the objectives if the ICCPR and are not reasonable in the circumstances. The United Nations Human Rights Committee has interpreted the requirement of 'reasonableness' to imply that any interference with privacy must be proportional to the end sought and be necessary in the circumstances.

Any interference with a citizen or non-citizen's privacy is necessary as Outward APP forms a component of the whole of government approach to assist in preventing persons departing from Australia from engaging in foreign conflicts and other activities that compromise Australia's national security. The departure check-in data received via the APP reporting system will increase the time interval for law enforcement agencies to implement a response to a given law enforcement concern about to occur at the border. As such, these measures are necessary to mitigate the risk to the safety of the Australian community.

These measures are proportionate to that necessity and do not increase the scope of information collected about departing persons. The information to be collected is information that is already collected at the immigration processing point when a person departs Australia and is typically presented to carriers by travellers and entered into their systems to facilitate check-in. These amendments just ensure that the information can be requested at an earlier point in time, and that reporting can occur at multiple points. This is intended to ensure the reports can be required when circumstances change (for example if a person does not board the aircraft after check-in), and provide border agencies sufficient time to make assessment as to the threat posed by certain travellers.

The introduction of automated departure processing will mean that Australian Border Force (ABF) officers will need to make fewer manual checks of personal information as the system will be making those checks instead. This is an operational enhancement that allows DIBP and ABF to perform its functions more thoroughly and with greater effectiveness, reducing potential workplace injuries through repetitive manual data input.

To the extent that this measure engages Article 17 of the ICCPR, these measures are lawful and reasonable in the sense of necessary and proportionate to achieving the legitimate purpose of identifying high risk travellers who may pose a safety risk to the Australian community.

Conclusion

The amendments are compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

- **Schedule 3 – Amendments relating to foreign currency exchange**

Overview of the Schedule

Schedule 3 to the Regulation amends the Citizenship Regulations. New regulation 12A of the Citizenship Regulations sets out among other things, in which foreign currencies and countries a citizenship application fee may be paid and how the exchange rate is to be calculated.

The acceptable foreign currencies and countries are set out in legislative instruments made under the Migration Regulations.

The relevant instruments, *Places and Currencies for Paying of Fees* and *Payment of Visa Application Charges and Fees in Foreign Currencies*, are updated in January and July each year and are given a new instrument number each time.

Consequently, to ensure that citizenship application fees can continue to be paid in foreign currencies and countries, subregulation 12A(7) of the Citizenship Regulations must be amended to specify the updated instrument numbers.

The updating of the instrument numbers is the only change and is merely technical in nature. There is no change to the substantive content of the instrument.

Human rights implications

The amendment has been assessed against the seven core international human rights treaties and does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation amendment is compatible with human rights as it does not raise any human rights issues.

- **Schedule 4 – Amendments relating to fees to accompany application for evidence of Australian citizenship**

Overview of the Schedule

Schedule 4 to the Regulation amends the *Australian Citizenship Regulations 2007* (the Citizenship Regulations). It proposes that new item 19A be inserted in Schedule 3 to the Citizenship Regulations, which will provide that an application made for evidence of Australian citizenship in accordance with section 37 of the *Australian Citizenship Act 2007* (the Citizenship Act) to which new regulation 12AA applies, incurs nil fee.

New regulation 12AA applies to an application made under section 37 of the Citizenship Act for evidence of Australian citizenship if:

(a) the application relates to the replacement of evidence of Australian citizenship that was lost, destroyed or damaged due to a natural disaster that is included on a list of natural disasters published by the Department on its website; and
(b) the application is made within 18 months of the date specified for the natural disaster on the list.

Such an application must be accompanied by the following information or documents:

(a) a statutory declaration stating that the evidence of Australian citizenship has been lost, destroyed or damaged due to the natural disaster;
(b) if the evidence of Australian citizenship is damaged - the damaged evidence of Australian citizenship.

These amendments allow for Australian citizens who have been affected by listed natural disasters to apply to replace lost or damaged evidence of their Australian citizenship without paying an application fee.

Human rights implications

The amendment has been assessed against the seven core international human rights treaties and does not engage any of the applicable rights or freedoms.

Conclusion

The amendment is compatible with human rights as it does not raise any human rights issues.

- **Schedule 5 – Amendments relating to nominated positions**

Overview of the Schedule

Schedule 5 to the Regulation introduces an instrument making power to allow the Minister to specify, in a legislative instrument, occupations that are eligible occupations for employer nomination for the Subclass 187 (Regional Sponsored Migration Scheme) visa (Subclass 187 visa). The Subclass 187 visa forms part of the Permanent Employer Sponsored Visa (PESV) program, with the Subclass 186 (Employer Nomination Scheme) visa. Specifically, sub-subparagraph 5.19(4)(h)(ii)(D) will be amended to provide for a new legislative instrument making power that specifies certain occupations that are eligible to be nominated by an employer for a Subclass 187 visa.

The effect of the amendment is that the Minister will have flexibility to specify which occupations are eligible to be nominated by an employer under the Direct Entry stream for a Subclass 187 visa.

The purpose of the amendments is to provide the Minister flexibility to specify occupations that are eligible occupations for employer nomination for the Subclass 187 visa.

Human rights implications

The amendment has been assessed against the seven core international human rights treaties and does not engage any of the applicable rights or freedoms.

Conclusion

The amendment is compatible with human rights as it does not raise any human rights issues.

- **Schedule 6 – Amendments relating to Tribunals Amalgamation**

Overview of the Schedule

Schedule 6 to the Regulation includes amendments that are consequential to the *Tribunals Amalgamation Act 2015* (the Amalgamation Act), which merged the Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT) and the Social Security Appeal Tribunal (SSAT) with the Administrative Appeals Tribunal (AAT) on 1 July 2015. The Amalgamation Act received Royal Assent on 26 May 2015.

The Amalgamation Act is primarily directed at the establishment, organisation and procedures of the amalgamated tribunal which is established under the *Administrative Appeals Tribunal Act 1975*. Schedule 2 of the Amalgamation Act also makes consequential amendments to the Migration Act. Schedule 6 seeks to give effect to these amendments by making consequential amendments to the Migration Regulations and the Migration Agents Regulations.

Part 1 of Schedule 6 to the Regulation amends the Migration Agents Regulations and the Migration Regulations by changing references from:

- the "MRT" and "RRT" to either the "AAT" or the "Tribunal" (which will be defined in section 5(1) of the Migration Act to means the Administrative Appeals Tribunal);
- "review authority" to "Tribunal";
- office bearer titles in the MRT and RRT to the relevant office bearer titles in the AAT: "Principal Member" to "President of the Tribunal"; and "Registrar, or a Deputy Registrar, or another officer of the Tribunal authorised in writing by the Registrar" to "Registrar of the Tribunal";
- "MRT-reviewable decision" to "Part 5-reviewable decision" (thereby referencing the Part of the Migration Act where provisions authorising the review of migration matters, other than in relation to protection visas, are located); and
- "RRT-reviewable decision" to "Part 7-reviewable decision" (thereby referencing the Part of the Migration Act where the review of protection visa decisions, other than review under Part 7AA, is located).

Part 1 of Schedule 6 to the Regulation also makes other consequential amendments to remove redundant provisions and streamline the drafting of various provisions in Schedule 2 to the Migration Regulations.

Part 2 of Schedule 6 to the Regulation makes additional multiple amendments to the Migration Regulations, to change references from:

- "Migration Review Tribunal" to "Tribunal";
- "an MRT-reviewable decision" to "a Part 5-reviewable decision";
- "a review authority" to the "Tribunal"; and
- "an RRT-reviewable decision" to "a Part 7-reviewable decision".

Additionally, a number of redundant references and provisions are omitted.

Human rights implications

The amendments to the Migration Agents Regulations and the Migration Regulations are consequential to the amendments made to the Migration Act by Schedule 2 of the Amalgamation Act. The Statement of Compatibility with Human Rights accompanying the Amalgamation Act addresses the human rights implications of these amendments. The amendments do not engage human rights.

Conclusion

The amendments are compatible with human rights as they do not engage Australia's human rights obligations.

- **Schedule 7 – Amendments to relating to visa application charges**

Overview of the Schedule

Within the government's 2015 Budget, it was announced and detailed in '*Budget Measures, Budget Paper No. 2'* that 'VACs (Visa Application Charges) for all visa applications made overseas will increase to align them with applications charges in Australia, with the exception of Child Visas, for which domestic VACs will be reduced to match overseas VACs. This measure will also increase VACs for a range of visas'.

Schedule 7 to the Regulation makes adjustments to VACs including:

- increase the first instalment of the VACs for some visa categories by Consumer Price Index (2.3 per cent) and 5 per cent for economic related visas, by 10 per cent for some family related visas (Remaining Relative, Carer, Aged Dependent Relative and Parent (non-contributory)) and by 50 per cent for significant investor visa, effective from 1 July 2015; and
- harmonise VACs for some visa categories by creating a uniform price point for onshore and offshore visa applications.

The amount of the increases does not exceed the applicable charge limits set out in the *Migration (Visa Application) Charge Act 1997*.

Schedule 7 makes amendments to the current values specified in the Schedule 1 to the Migration Regulations to adjust VACs.

Human rights implications

<u>Right to protection of the family</u>

The right to respect for the family is protected by Articles 17 and 23 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

It may be argued that the 10 per cent VAC increase for some family related visas (Remaining Relative, Carer, Aged Dependent Relative and Parent (non-contributory)) engages the aforementioned rights. However, the government is of the view that this

measure is compatible with these rights in light of the VAC representing a small price of the overall cost of migrating to Australia. This reasonable and proportionate measure has the legitimate objective of reducing the burden on the Australian taxpayer of meeting the significant life-time costs of family migration, while maintaining a commitment to the migration of family members. This measure requires applicants to pay a higher VAC which will assist the government in providing services and should be seen as a modest contribution towards their future health, welfare and other costs in Australia.

Conclusion

The amendments are compatible with human rights as to the extent that it engages or limits the right to protection of the family, those limitations are reasonable, necessary and proportionate.

- **Schedule 8 – Amendment to definition of 'international airport'**

Overview of the Schedule

Schedule 8 to the Regulation includes an amendment is to include Sunshine Coast Airport (Maroochydore) and Townsville Airport in the section 4 definition of *international airport* of the *Customs Regulation 2015* (the Regulation). This amendment will allow the provision of a Customs presence at Sunshine Coast Airport (Maroochydore) and Townsville Airport, in addition to the nine airports specified in section 4 of the Regulation, following the grant of appropriation funding for biosecurity and border clearance activities at these airports.

The amendment will remove the ability for Customs and Border Protection to cost recover for the provision of services at Sunshine Coast (Maroochydore) and Townsville Airports.

Human rights implications

The amendments does not engage any of the applicable rights or freedoms.

Conclusion

The amendments are compatible with human rights as they do not engage Australia's human rights obligations.

- **Schedule 9 – Miscellaneous Amendments**

Overview of the Schedule

Schedule 9 to the Regulation comprises items 1 and 2, and an application provision at item 3.

Item 1 is an amendment to subregulation 5.40(1) of the *Migration Regulations 1994* and is consequential to the commencement of the *Public Governance, Performance and Accountability Act*. The item replaces a reference to "an Agency within the meaning of the *Financial Management and Accountability Act 1997*" with a reference to "a non-corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act*".

Item 2 fixes a typographical error in the note to paragraph 1404(3)(f) of Schedule 1 to the Migration Regulations. It replaces a reference to "subparagraph (iii)", with a reference to "subparagraph (iv)".

Item 3 provides that the amendment made by item 1 does not affect the continuity of any instrument that is in force under that provision immediately before the commencement of the item.

Human rights implications

The amendments in Schedule 9 to this Legislative Instrument are consequential and technical in nature and do not engage any of the applicable rights or freedoms.

Conclusion

The amendments are compatible with human rights as they do not raise any human rights issues.

ATTACHMENT C

Details of the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* (the Regulation).

Section 2 – Commencement

This section provides that the Regulation commences on 1 July 2015.

The purpose of this section is to provide for when the amendments made by the Regulation commence.

Section 3 – Authority

This section provides that the Regulation is made under the *Migration Act 1958* (the Migration Act), the *Australian Citizenship Act 2007* (the Citizenship Act) and the *Customs Act 1901* (the Customs Act).

The purpose of this section is to set out the Acts under which the Regulation is made.

Section 4 – Schedule(s)

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

The purpose of this section is to provide for how the amendments in the Regulation are to operate.

Schedule 1 – Amendments relating to Bridging F and Referred Stay visas

Item [1] – Regulation 1.03

This item inserts two new definitions in regulation 1.03 of Part 1 of the *Migration Regulations 1994* (the Migration Regulations).

New definition of "assistance notice"

This item provides that "*assistance notice*" means a notice in writing, issued by the Attorney-General, Secretary of the Attorney-General's Department or SES employee or acting SES employee of that department, in relation to a non-citizen, advising that the non-citizen is required in Australia to assist in the administration of criminal justice in relation to human trafficking, slavery or slavery like practices and satisfactory arrangements have been made to meet the cost of keeping the non-citizen in Australia.

Previously, a non-citizen who was required to be in Australia to assist with the administration of criminal justice in relation to a *human trafficking* offence, as a victim of and witness to the offence, would have been the subject of a Criminal Justice Stay Certificate. This, among other considerations, made the non-citizen eligible for the grant of a Criminal Justice Stay visa.

The Criminal Justice Stay visa is the same visa given to non-citizen perpetrators of criminal offences which "stays" their removal or deportation from Australia. A Criminal Justice Stay Certificate may be given in relation to various cohorts of people including the perpetrators of offences who may otherwise be subject to cancellation of their visa on character grounds.

Unlike the Criminal Justice Stay Certificate, the assistance notice is intended to be used exclusively by non-citizens who are victims of and witnesses to human trafficking, slavery or slavery like practices. Generally, this vulnerable cohort of people are unlikely to have their visa cancelled on character grounds, and would therefore not require a "stay" of potential removal or deportation.

Including a definition of "assistance notice" is consequential to new provisions in the Migration Regulations which allow a person to make an application for a Bridging F visa that would permit the holder of the visa to remain in Australia for an extended period if they are able to assist in the administration of criminal justice in relation to a human trafficking offence.

The purpose and effect of the inclusion of the new definition of assistance notice exclusively for this cohort of applicants removes the necessity to rely on a visa that may lead to misidentification of the holder as a perpetrator of an offence, rather than a victim of and witness to the offence.

New definition of "human trafficking"

This item provides that *human trafficking* includes activities such as trafficking in persons, organ trafficking and debt bondage.

The inclusion of a definition of "human trafficking" is to put beyond doubt that a reference to human trafficking includes a range of activities that are offences in State, Territory or Commonwealth criminal codes. The definition is not intended to be an exhaustive list of 'like' offences, it is merely intended to indicate a range of activities that may be considered to be human trafficking.

The purpose and effect of the inclusion of the new definition of human trafficking removes the necessity to list each State, Territory or Commonwealth offence that includes activities of these types.

Item [2] – Regulation 2.07AK

This item repeals the heading of Regulation 2.07AK and substitutes "2.07AK Applications for Referred Stay (Permanent) (Class DH) visas".

The heading of old Regulation 2.07AK referred to applications for Witness Protection (Permanent) (Trafficking)(Class DH) visas. Regulation 2.07AK provides the mechanism for making a valid application for a Class DH visa.

The effect and purpose of the item is consequential to the change of this permanent visa's name, given effect by Items [7] and [24] of this Schedule.

Item [3] –Subparagraphs 2.07AK(3)(c)(i) and (ii)

This item omits the words "trafficked a person" and substitutes the words "engaged in human trafficking, slavery or slavery-like practices".

This item is a technical amendment. The purpose and effect of this item is to update and make clear the language used in reference to certain offences and to utilise the new definition of human trafficking to provide consistency within the Migration Regulations.

Item [4] Subregulation 2.20(1)

This item repeals the words "eligible *non-citizen*" and substitutes the words "*eligible non-citizen*".

This item is a technical amendment to correct a minor typographical error. The effect and purpose of this amendment is to italicise the reference to the defined term *eligible non-citizen.*

Items [5], [9] and [22] – Sub-subparagraph 2.20(14)(a)(ii)(E), Subparagraphs 1306(3)(d)(i) and (ii) of Schedule 1 and Sub-subparagraphs 060.511(3)(b)(iii)(A) and 060.511(3)(b)(iv)(B) of Schedule 2

These items insert ", slavery or slavery-like practices" after the words "human trafficking" in Sub-subparagraph 2.20(14)(a)(ii)(E), Subparagraphs 1306(3)(d)(i) and (ii) and Sub-subparagraphs 060.511(3)(b)(iii)(A) and 060.511(3)(b)(iv)(B).

These are technical amendments, the purpose and effect of which is to update and make clear the language used in reference to certain offences and to utilise the new definition of human trafficking to provide consistency within the Migration Regulations.

Item [6] – Subparagraph 2.20(15)(a)(ii)

This item inserts a reference to a non-citizen who is the subject of an "assistance notice" that has not been revoked in subparagraph 2.20(15)(a)(ii).

For the purposes of the definition of eligible non-citizens in section 72 of the *Migration Act 1958*, Regulation 2.20 prescribes classes of non-citizens who are eligible for the grant of a bridging visa.

Old subparagraph 2.20(15)(a)(ii) provided that subregulation 2.20(15) applies to a non-citizen who is in Australia and is the subject of a valid criminal justice stay certificate under Division 4 of Part 2 of the Act.

The purpose and effect of the inclusion of the reference to an assistance notice is to make clear that a non-citizen who is in Australia, and is the subject of an assistance notice that has not been revoked, who also meets the remaining requirements in subregulation 2.20(15), is a non-citizen who is also eligible for the grant of a bridging visa.

Item [7] – Item 1133 of Schedule 1 (heading)

This item repeals the heading of Item 1133 of Schedule 1 to the Migration Regulations and substitutes "1133. Referred Stay (Permanent) (Class DH)".

The heading of old Item 1133 referred to the validity requirements on applications for Witness Protection (Trafficking)(Permanent) (Class DH) visas.

Victim advocate groups have indicated a perception that the name of the permanent visa for human trafficking, slavery or slavery-like practices victims (as witnesses to the offence) contributed to the continued stigmatization of these visa holders – to the extent that the old name of the visa implied that the person was a victim of a human trafficking offence and clearly indicated that the person participated in the administration of criminal justice as a witness to the offence, and required protection on a permanent basis because of their participation in the criminal justice process.

The government has made a commitment to combat offences of trafficking in people, slavery and slavery-like practices by ensuring perpetrators are brought to justice and by protecting and supporting the victims of these types of offences against the person. In keeping with that commitment, and with the aim of removing any perceived or actual stigma from a particularly vulnerable cohort of people, the name of the visa has been changed to remove the potentially stigmatizing words.

Item [8] – Before subparagraph 1306(3)(c)(i) of Schedule 1

This item inserts a new subparagraph 1306(3)(c)(ia) in paragraph 1306(3)(c) of Schedule 1 to the Migration Regulations.

Paragraph 1306(3)(c) specifies a number of alternative requirements, one of which must apply to an applicant, in order for the application for a Bridging F visa to be valid.

The purpose and effect of new subparagraph 1306(3)(c)(ia) is to insert a new alternative validity requirement in relation to making an application for a Bridging F visa. The new requirement is that an assistance notice has been given to the Minister in relation to the applicant, and the notice has not been revoked.

Item [10] – Division 060.1 (note)

This item repeals the note following Division 060.1 of Schedule 2 to the Migration Regulations, and substitutes a new note which directs the reader to regulation 1.03 for the definition of *human trafficking* and also specifies that there are no interpretation provisions specific to Part 060 of Schedule 2 to the Migration Regulations.

This is a technical amendment, the purpose and effect of which is to include a reference to the new definition of human trafficking inserted into regulation 1.03 by Item [1] of this Schedule.

Item [11] – Clause 060.221 of Schedule 2

This item amends Clause 060.221 to clarify that a criterion for a primary applicant for a Bridging F visa that must be satisfied at the time of decision to grant a Bridging F visa is that the applicant has been identified as a suspected victim of human trafficking, slavery or slavery-like practices.

This item is a technical amendment. The purpose and effect of this item is to update and make clear the language used in reference to certain offences and to utilise the new definition of human trafficking to provide consistency within the Migration Regulations.

Items [12], [13], [17] and [18] – Clauses 060.222, 060.223, 060.323 and 060.324 of Schedule 2

These items remove the phrase "The Minister is satisfied" from clauses 060.222, 060.223, 060.323 and 060.324 of Schedule 2 to the Migration Regulations.

Section 65 of the *Migration Act 1958* already provides that, in relation to a decision to grant a visa, the Minister is satisfied……that criteria have been satisfied. The existing repetition in the legislation with respect to granting a Bridging F visa (looking at the relevant criteria for the grant of the visa), requires that the Minister is satisfied that the Minister is satisfied that the criteria (for example, the criteria in clauses 060.222, 060.223, 060.323 and 060.324) have been satisfied .

These are technical amendments, the purpose and effect of which is to remove redundant words from these clauses.

Item [14] – At the end of Subdivision 060.22 of Schedule 2

This item inserts a new criterion to the primary criteria that must be satisfied at the time of decision to grant a Bridging F visa.

The purpose and effect of new clause 060.224 is to provide that it is a criterion for the grant of a Bridging F visa that, if the applicant was the subject of an assistance notice at the time the application for the visa was made, the assistance notice given to the Minister with respect to the person is still "in effect" because it has not been revoked.

Item [15] – Clause 060.321 of Schedule 2

This item inserts "(the *primary applicant*)" after "a person" in Clause 060.321 of Schedule 2 to the Migration Regulations.

Old Clause 060.321 provides that the applicant is a member of the immediate family of, and made a combined application with, a person in relation to whom the primary criteria in Subdivision 060.22 are satisfied.

The purpose and effect of this item is to make "*primary applicant*" a 'tagged term' to assist in the readability of following clauses by making it clear that a reference to the *primary applicant* is a reference to the person who satisfies the primary criteria for the grant of a Bridging visa F. That is, the *primary applicant* is a person who the Minister is satisfied has been identified as a suspected victim of human trafficking for whom suitable arrangements have been made for their care, safety and welfare in Australia for

the proposed period of the visa and who will abide with the conditions imposed upon the bridging visa if it is granted.

Item [16] – Clause 060.322 of Schedule 2

This item substitutes the words "the primary applicant" for the words "a person who has been identified as a suspected victim of human trafficking" in Clause 060.322 of Schedule 2 to the Migration Regulations.

Old Clause 060.322 provided that the Minister is satisfied that the applicant continues to be a member of the immediate family of a person that has been identified as a suspected victim of human trafficking.

The purpose and effect of this item is to assist the readability of this Clause by taking advantage of the 'tagged term' inserted by Item [11] of this Schedule. The item also operates to remove references to suspected victims of human trafficking, minimising possible stigmatization while still being specific to this cohort of vulnerable applicants.

Item [19] – At the end of Subdivision 060.32 of Schedule 2

This item inserts a new criterion to the secondary criteria that must be satisfied at the time of decision for the grant of a Bridging F visa.

The purpose and effect of new clause 060.325 is to provide that it is a criterion for the grant of a Bridging F visa that, if the applicant is and continues to be a member of the immediate family of the primary applicant who was the subject of an assistance notice at the time of application for the visa was made, the assistance notice given to the Minister with respect to the primary applicant is still in effect because it has not been revoked.

Item [20] – Subparagraphs 060.511(2)(c)(ii) and (iii) of Schedule 2

This item substitutes a new subparagraph 060.511(2)(c)(ii) and omits old subparagraphs 060.511(2)(c)(ii) and (iii) of Schedule 2 to the Migration Regulations. Clause 060.511 deals with when a Bridging F Visa is in effect.

Old subparagraphs 060.511(2)(c)(ii) and (iii) provided that for a person to whom subregulation 2.20(15) applies regardless of whether the person has been immigration cleared, and who made an application in accordance with subregulation 2.20B(2) — the bridging visa permits the holder to remain in Australia until the earliest of the following, either the date on which the holder is granted a new criminal justice stay visa in accordance with Division 4 of Part 2 of the Act or the date on which a criminal justice stay certificate issued to the holder in accordance with that Division is cancelled.

The purpose and effect of new subparagraph 060.511(2)(c)(ii) is to provide that, as an alternative to the cessation provision in subparagraph 060.511(2)(c)(i), the visa would cease to be in effect 28 days after the day the Attorney-General, the Secretary of the Attorney-General's Department or an SES employee or acting SES employee of the Attorney-General's Department, notifies the Minister, in writing, that the assistance notice is revoked.

This 28 day period permits the visa holder to make arrangements to either seek the grant of a different visa or to depart Australia.

This reflects that, following these amendments, these applicants would be the subject of an assistance notice rather than a criminal justice stay certificate.

Item [21] – After Subclause 060.511(2) of Schedule 2

This item inserts a new subclause 060.511(2A) after subclause 060.511(2) of Schedule 2 to the Migration Regulations.

The purpose and effect of new subclause 060.511(2A) is to make provision for when a Bridging F visa is in effect for a non-citizen who is either the subject of an assistance notice or who is a member of the immediate family of such a person. In those circumstances, the visa comes into effect when it is granted, permitting the holder of the visa to stay in Australia until the visa ceases to be in effect, which would be 28 days after the day the Attorney-General, the Secretary of the Attorney-General's Department or an SES employee or acting SES employee of the Attorney-General's Department, notifies the Minister, in writing, that the assistance notice is revoked.

Item [23] – Clause 060.612 of Schedule 2

This item repeals clause 060.612 and substitutes new clause 060.612.

Old clause 060.612 dealt with both mandatory conditions that were imposed and discretionary conditions that may be imposed on holders of Bridging F visas. Old paragraph 060.612(a) mandatorily imposed both condition 8101 (the holder must not work in Australia) and condition 8401 (a requirement to report to the department). Old paragraph 060.612(b) dealt with conditions that may be imposed at the Minister's discretion, including conditions 8505 and 8506 (which relate to living at a particular address and reporting any change of address) and conditions 8507, 8510 and 8511 (which relate to the holder of the visa paying costs of detention, showing a passport and showing a ticket for travel to a country other than Australia, respectively).

An effect of this amendment is to remove the mandatory conditions that the visa holder must not engage in work in Australia and must comply with reporting requirements during the period the visa is in effect from the holder of a Bridging F visa. These conditions will be discretionary rather than mandatory.

A further effect is to remove conditions 8507, 8510 and 8511 from application to a Bridging F visa holder as those conditions are no longer considered appropriate to be imposed, even on a discretionary basis, on applicants from this vulnerable cohort

This amendment is in keeping with the government's commitment to protect and support victims of human trafficking offences by enabling them to achieve a level of personal autonomy in relation to earning their own income whilst they are in Australia assisting in the administration of criminal justice should they be sufficiently recovered from their experience and able to engage in work.

Item [24] – Part 852 of Schedule 2 (heading)

This item repeals the heading of Part 852 of Schedule 2 to the Migration Regulations and substitutes "Subclass 852 - Referred Stay (Permanent)".

The heading of old Part 852 referred to applications for Witness Protection (Trafficking)(Permanent) visas.

The purpose and effect of this item is to change the permanent visa's name from Witness Protection (Trafficking)(Permanent) visa to Referred Stay (Permanent) visa.

As discussed at Item [7], the change to the permanent visa's name is in keeping with the government's commitment to protect and support victims of human trafficking offences and aims to reduce stigma associated with being a trafficked person, and with participating in the administration of criminal justice with respect to trafficking in people, slavery and slavery-like offences.

Item [25] Amendments of listed provisions – Witness Protection (Trafficking)

This item omits the words "Witness Protection (Trafficking)" and substitutes the words "Referred Stay" in each of the following provisions, and in the notes following Clause 852.311 and subitem 1133(3):

- subregulation 2.07AK(1);
- paragraph 2.08AB(b);
- subparagraph 2.08AC(2)(b)(i);
- paragraph 2.08AC(3)(a);
- sub-subparagraph 2.08AC(4)(a)(i)(B);
- subitem 1133(3) of Schedule 1; and
- Clauses 852.211, 852.224, 852.311, 852.312 and 852.323 of Schedule 2.

The effect and purpose of these items is to make consequential changes to reflect the change of this permanent visa's name, given effect by items [7] and [24] of this Schedule.

Schedule 2 – Reporting on departing passengers and crew

Item [1] – Regulation 3.13

This item inserts a number of new definitions in regulation 3.13 of the Migration Regulations and, in conjunction with item 2 restructures Division 3.2 of the Migration Regulations. Division 3.2 of the Migration Regulations deals with information about passengers and crew on overseas vessels.

The new definitions in regulation 3.13 also ensure that Division 12B of Part 2 of the Migration Act will now apply to both departing and arriving vessels. Division 12B of the Migration Act deals with reporting on passengers and crew of aircraft and ships.

Prior to this amendment, definitions for these terms existed, but rather than being collected in the definitions section of Division 3.2, they were separated into subsections 3.13A(2), 3.13B(2) and 3.13C(2).

As part of the restructure of Division 3.2 of the Migration Regulations this amendment collects those definitions into regulation 3.13, the interpretation provision for Division 3.2, and makes some minor changes to those definitions to reflect the amendments to

Division 12B of the Migration Act made by the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014* (the Foreign Fighters Act), including:

- references in Division 12B of the Migration Act to 'airports' and 'ports' were generalised to 'place' or 'place in Australia'. This was to ensure that reporting requirements could not be avoided by departing or arriving at an unusual place.

  Accordingly, all references in the new definitions to 'airport' or 'port' have been amended to 'place' or 'place in Australia'.

- The amendments made by Schedule 6 of the Foreign Fighters Act extended Advance Passenger Processing (APP) reporting to outgoing vessels; accordingly any reference in the new definitions specific to an incoming vessel was generalised to include both incoming and outgoing vessels.

New definition of "international cargo ship"

This item provides that "international cargo ship" means a civilian vessel that:

- has a gross tonnage of at least 500 tons; and
- either:
  - is used wholly or principally to provide sea transportation of cargo; or
  - is used to provide services to ships or shipping; and
- does not include any of the following:
  - an international passenger cruise ship;
  - a fishing vessel;
  - a fishing support vessel;
  - a pleasure craft.

The definition of "international cargo ship" is relevant to regulation 3.13A of the Migration Regulations, which prescribes the kind of aircraft or ship to which Division 12B of the Migration Act applies. Division 12B of the Migration Act deals with reporting on passengers and crew of aircraft and ships. This definition is identical to the definition that appeared in subregulation 3.13C(2) before that subregulation was repealed by item 2 of Schedule 2 of the Regulation.

New definition of "international passenger aircraft"

This item provides that "international passenger aircraft" means an aircraft that is being used to provide a regular international passenger air service or an international passenger charter air service.

The definition of "international passenger aircraft" is relevant to regulation 3.13A of the Migration Regulations, which prescribes the kind of aircraft or ship to which Division 12B of the Migration Act applies. Division 12B of the Migration Act deals with reporting on passengers and crew of aircraft and ships.

New definition of "international passenger charter air service"

This item provides that "international passenger charter air service" means a service of providing air transportation of persons:

- from:
    - a place outside Australia to a place in Australia; or
    - a place in Australia to a place outside Australia; and
- that is provided:
    - by an airline operator that provides a regular international passenger air service; and
    - in return for a fee payable by persons using the service; and
    - that is not conducted in accordance with an international airline licence granted under Division 1 of Part 6 of the *Air Navigation Regulations 1947* (the Air Navigation Regulations).

The definition of "international passenger charter air service" is relevant to the new definition of "international passenger aircraft" inserted by this item.

This definition is substantially similar to the definition that appeared in the previous subregulation 3.13A(2) before that subregulation was repealed by item 2 of Schedule 2 of the Regulation. However, there are a number of small changes.

References to 'airport in Australia' were generalised to a 'place in Australia', this change reflects the amendments to Division 12B of the Migration Act made by the Foreign Fighters Act.

References to regulation 15 of the Air Navigation Regulations were updated to Division 1 of Part 6 of the Air Navigation Regulations. This reflects amendments made by the *Air Navigation Amendment Regulations 2009 (No.1)* which commenced on 20 March 2009 and had the effect that an international air licence is now granted under subregulation 17A(2) of the Air Navigation Regulations. Division 1 of Part 6 of the Air Navigation regulations contains both regulation 15 and regulation 17A, so covers licenses granted under both versions of the Air Navigation Regulations.

New definition of "international passenger cruise ship"

This item provides that "international passenger cruise ship" means a ship that:

- has sleeping facilities for at least 100 persons (other than crew members); and
- is being used to provide an international passenger sea transportation service.

The definition of "international passenger cruise ship" is relevant to regulation 3.13A of the Migration Regulations, which prescribes the kind of aircraft or ship to which Division 12B of the Migration Act applies. Division 12B of the Migration Act deals with reporting on passengers and crew of aircraft and ships.

This definition is identical to the definition that appeared in the previous subregulation 3.13B(2) before that subregulation was repealed by item 2 of Schedule 2 of the Regulation.

New definition of "international passenger sea transportation service"

This item provides that "international passenger sea transportation service" means a service of providing sea transportation of persons:

- from:
    - a place outside Australia to a place in Australia; or
    - a place in Australia to a place outside Australia; and
- that is provided in return for a fee payable by persons using the service; and
- that is available to the general public.

The definition of "international passenger sea transportation service" is relevant to the new definition of "international passenger cruise ship" inserted by this item.

This definition is substantially similar to the definition that appeared in the previous subregulation 3.13B(2) before that subregulation was repealed by item 2 of Schedule 2 of the Regulation. However the new definition has been slightly reworded to apply to both incoming and outgoing vessels.

New definition of "regular international passenger air service"

This item provides that "regular international passenger air service" means a service of providing air transportation of persons:

- from:
    - a place outside Australia to a place in Australia; or
    - a place in Australia to a place outside Australia; and
- that is provided in return for a fee payable by persons using that service; and
- that is conducted in accordance with:
    - an international airline licence granted under Division 1 of Part 6 of the *Air Navigation Regulations 1947;* and
    - fixed schedules from fixed airports outside Australia over specific routes to fixed airports in Australia; and
- that is available to the general public on a regular basis.

The definition of "regular international passenger air service" is relevant to the new definition of "international passenger charter air service" inserted by this item.

This definition is substantially similar to the definition that appeared in the previous subregulation 3.13A(2) before that subregulation was repealed by item 2 of Schedule 2 of the Regulation. However the new definition has been slightly reworded to:

- apply to both incoming and outgoing vessels,
- generalise 'airport' to 'place'; and
- reflect the current licensing regulations in the Air Navigation Regulations

Item [2] – Regulations 3.13A to 3.13D

This item repeals and substitutes regulations 3.13A, 3.13B, 3.13C and 3.13D of the Migration Regulations.

Repealed Regulations 3.13A, 3.13B and 3.13C

Together these three regulations provided that international passenger aircraft, international passenger cruise ships, and international cargo ships were a kind of aircraft or ship to which Division 12B of the Migration Act applied, and provided definitions for relevant terms. The substance of these provisions has been substantially retained in the new provisions. The same kinds of vessels are made aircraft or ships to which Division 12B of the Migration Act applies by new regulation 3.13A, and the definitions have been recreated in regulation 3.13. There are some minor changes to the provisions to reflect the broadening of terminology from 'airport/port' to 'place', to reflect that APP now applies to incoming and outgoing vessels, and to reflect the amended licensing provisions in the Air Navigation regulations.

Repealed Regulation 3.13D

Repealed regulation 3.13D provided the timeframes under which arriving ships of a kind to which Division 12B of the Migration Act applied had to make inward APP reports. Most of these timeframes have been recreated in new regulation 3.13B. However subregulation 3.13D(1) provided timeframes for vessels that departed their last port prior to 15 February 2009. These timeframes have not been retained, as subregulation 3.13D(1) was a transitional provision which is no longer required as it is highly unlikely that there are any vessels to which it could apply.

Should a ship to which repealed subregulation 3.13D(1) would have applied arrive in Australia on or after 1 July 2015. It will be required to make an APP report under the timeframes that have existed for most vessels since 16 February 2009, which require reports to be made earlier than their pre-16 February 2009 equivalents. Given the apparently slow pace of travel of any vessel to which this will apply, the slightly longer reporting timeframes are not considered an overly onerous burden.

New Regulation 3.13A

New regulation 3.13A deals with information about passengers and crew which is to be given before arrival and departure of certain aircrafts and ships. New regulation 3.13A also reflects the restructure of Division 3.2 of the Migration Regulations. Division 3.2 of the Migration Regulations deals with information about passengers and crew on overseas vessels.

This regulation prescribes the kind of aircraft or ship to which Division 12B of the Migration Act applies in subsection 24I(1) of the Migration Act, including:

- an international passenger aircraft
- an international passenger cruise ship
- an international cargo ship

Generally, Division 12B of the Migration Act deals with the electronic reporting of persons due to arrive at, or depart from, a place in Australia via an approved system and before a prescribed deadline.

New regulation 3.13A consolidates the types of vessels previously provided for by repealed regulations 3.13A, 3.13B and 3.13C into a single regulation. In addition, 3.13A extends those definitions to cover both departing and arriving vessels. These changes reflect the fact that, as a result of amendments made by Schedule 6 to the Foreign Fighters Act, Division 12B of Part 2 requires all airlines and maritime vessels reporting on travellers arriving in Australia, to now report via the APP system all travellers *departing* Australia (referred to as 'Outward APP') as well as the pre-existing requirement to report on travellers *arriving* in Australia.

New Regulation 3.13B

New regulation 3.13B prescribes the relevant reporting deadlines for paragraphs 245L(5)(a) and 245L(5)(b) of the Migration Act. This amendment also reflects the restructure of Division 3.2 of the Migration Regulations.

Subsection 245L(5) of the Migration Act deals with the prescribed period that a report on passengers or crew on a ship arriving to Australia must be given by. Specifically, paragraph 245L(5)(a) of the Migration Act provides that a report on passengers or crew on a ship must be given not later than the start of the prescribed period before the ship's estimated time of arrival at the place in Australia. The prescribed period in new subregulation 3.13B(1) is 96 hours. This means that a report on passengers or crew on a ship must be given at some time within the 96 hours before the ship's arrival at the place in Australia.

Paragraph 245L(5)(b) of the Migration Act provides that if the journey is of a kind prescribed in the Migration Regulations made for the purposes of paragraph 245L5(b), a report on passengers or crew on a ship arriving to Australia must be given no later than the start of the shorter period specified in those regulations before the ship's estimated time of arrival at the place in Australia.

The table at new subregulation 3.13B(2) provides for the reporting period for certain journeys based on the likely duration of a ship's journey. For example, where the likely duration of the ship's journey is 72 hours, but less than 96 hours, the specified period for providing a report is 72 hours before the ship's time of arrival.

This regulation recreates repealed subregulations 3.13D(2) and (3). Repealed subregulation 3.13D(1), applied to vessels that departed their last place before arriving in Australia prior to 16 February 2009, and is no longer needed as it is highly unlikely that there are any vessels to which it applies.

New Regulation 3.13C

New regulation 3.13C limits the reporting requirements for Outward APP to only the part of the flight or voyage where the aircraft or ship actually leaves Australia, for the purpose of paragraph 245LA(3)(b) of the Migration Act.

Paragraph 245LA(3)(b) of the Migration Act provides that the Migration Regulations may prescribe that the reporting requirements only relate to the part of the flight or voyage that is from the last place in Australia to the place outside Australia. New regulation 3.13C ensures that in the situation where a flight or voyage is calling in multiple places in Australia before departing Australia, a report is only required for a passenger or crew member for the part of the flight or voyage that is from the *last* place in Australia to a place outside Australia.

It is not currently intended that operators be required to report on the domestic legs of voyages which contain both international and domestic components. This amendment ensures that operators will only need to report on the leg of the voyage where the vessel leaves Australia.

New Regulation 3.13D

New regulation 3.13D provides the deadline for providing an Outward APP report for the kind of aircraft or ship to which Division 12B of the Migration Act applies, including:

- an international passenger aircraft
- an international passenger cruise ship
- an international cargo ship

Deadline for reporting on persons departing on an international passenger aircraft

Subregulation 3.13D(1) deals with the deadline for an Outward APP report on persons departing on an international passenger aircraft.

Subregulation 3.13D(1) provides for the three different circumstances where Outward APP reporting is required for a passenger aircraft:

- before the passenger or crew member is required to present evidence of their identity to a clearance authority in relation their departure. Clearance authority has the meaning given by section 165 of the Migration Act which deals with immigration clearance.
- where a report has already been given in respect of a passenger and they subsequently change their flight, a new report must be given before the passenger or crew member boards their new departing flight;
- where a person is transiting through Australia and is not immigration cleared, and a report has not been previously given in relation to their departure from Australia, the report must be given before the passenger or crew member boards the departing flight.

The three scenarios reflect the policy intention that an Outward APP report should be received as soon as possible prior to a person departing Australia to ensure the information can be utilised before the person leaves Australia.

Deadline for reporting on persons departing on an international passenger cruise ship

Subregulation 3.13D(2) gives effect to the deadline for Outward APP reporting on persons departing on an international cruise ship. Subregulation 3.13D(2) requires that for a passenger or crew member who is on, or is expected to be on, a voyage to be undertaken by an international passenger cruise ship, the report required by subsection 245LA(2) of the Migration Act must be provided before the ship departs a place in Australia for a place outside Australia.

This ensures that the operator of an international passenger cruise ship uses an approved system for an Outward APP report on passengers and crew, including expected passengers and crew, prior to the ship physically leaving Australia.

This measure differs to the timeframes for airline carriers for outward APP reporting due to the lack of consistently fixed infrastructure at the various ports located throughout Australia. Linking the Outward APP reporting obligation to the physical event to the ship's detachment from the port of embarkation is the most appropriate method of requiring reporting.

Deadline for reporting on persons departing on an international cargo ship

Subregulation 3.13D(3) gives effect to the deadline for Outward APP reporting on persons departing on an international cargo ship. Subregulation 3.13D(3) requires that for a passenger or crew member who is on, or is expected to be on, a voyage to be undertaken by an international cargo ship, the report required by subsection 245LA(2) of the Migration Act must be provided before the ship departs a place in Australia for a place outside Australia.

This aligns with the policy for international passenger cruise ships by ensuring that the operator of an international cargo ship uses an approved system for an Outward App report on passengers and crew, including expected passengers and crew, prior to the ship physically leaving Australia.

New subregulation 3.13D(2) and (3) also reflect the amendments made by Schedule 6 to the Foreign Fighters Act to include a reference to 'place' or 'place in Australia' instead of 'airport' or 'ports' (as described at item 1 of this Regulation).

Item [3] and [4] – Regulation 5.20 (note),

The notes at regulation 5.20 and 5.21 have no operative effect and were repealed in line with current drafting practices.

Schedule 3 – Amendment relating to foreign currency exhange

Item 1 – Subregulation 12A(7)

This item substitutes the previous definitions of "conversion instrument" and "places and currencies instrument" in subregulation 12A(7) of the *Australian Citizenship Regulations 2007* (the Citizenship Regulations).

New definition of "conversion instrument"

This item provides that "conversion instrument" means the instrument titled *Payment of Visa Application Charges and Fees in Foreign Currencies,* (IMMI 15/051), that commences on 1 July 2015.

The definition of "conversion instrument" is relevant to provisions in the Citizenship Regulations which allow a person who makes an application under the Citizenship Act to pay the prescribed fee in a foreign currency specified in the conversion instrument.

This item replaces a reference to the previous instrument in the definition of "conversion instrument" with a reference to an instrument that is made under subregulation 5.36(1A) of the Migration Regulations. This instrument commences on 1 July 2015 and sets out visa application charge and fee amounts in foreign currencies which correspond to amounts payable in Australian dollars. If the amount of the application fee is mentioned in the conversion instrument, then payment can be made in the corresponding amount in the foreign currency.

By referring to the current instrument made under subregulation 5.36(1A) of the Migration Regulations, application fees and refunds payable under *the Australian Citizenship Act 2007* (the Citizenship Act) can continue to be paid in foreign currencies. This amendment reduces hardship for clients making applications at overseas posts.

Due to the operation of section 14 of the *Legislative Instruments Act 2003*, it is not possible to incorporate by reference the instrument made under subregulation 5.36(1A) of the Migration Regulations as in force from time to time. Rather, the current instrument needs to be incorporated by reference at the time of commencement of the Migration Regulations.

Instruments made under the Migration Regulations are incorporated in the Citizenship Regulations because the Citizenship Act does not currently permit the Minister for Immigration and Border Protection to make instruments under the Citizenship Regulations.

New definition of "places and currencies instrument"

This item provides that "places and currencies instrument" means the instrument titled *Places and Currencies for Paying of Fees*, (IMMI 15/052), that commences on 1 July 2015.

The definition of "places and currencies instrument" is relevant to provisions in the Citizenship Regulations which allow a person who makes an application under the Citizenship Act to pay the prescribed fee in a foreign country and a foreign currency specified in the "places and currencies instrument."

This item replaces a reference to the previous instrument in the definition of "places and currencies instrument" with a reference to an instrument that is made under subregulation 5.36(1) of the Migration Regulations. This instrument commences on 1 July 2015 and sets out the places and currencies for paying fees.

By referring to the current instrument made under subregulation 5.36(1) of the Migration Regulations, application fees and refunds payable under the Citizenship Act can continue to be paid in foreign countries and foreign currencies. This amendment reduces hardship for clients making applications at overseas posts.

Due to the operation of section 14 of the *Legislative Instruments Act 2003*, it is not possible to incorporate by reference the instrument made under subregulation 5.36(1) of the Migration Regulations as in force from time to time. Rather, the current instrument needs to be incorporated by reference at the time of commencement of the Migration Regulations.

Instruments made under the Migration Regulations are incorporated in the Citizenship Regulations because the Citizenship Act does not currently permit the Minister for Immigration and Border Protection to make instruments under the Citizenship Regulations.

Schedule 4 – Amendment relating fees to accompany application for evidence of Australian citizenship

Item [1] – Regulation 12AA

This item inserts new subregulations 12AA(1) and (2) in Part 3 of the Citizenship Regulations.

Subregulation 12AA(1) provides that the regulation applies to an application for a replacement evidence of Australia citizenship made under section 37 of the Citizenship Act if the previous evidence of Australian citizenship was lost, destroyed or damaged due to a natural disaster and that natural disaster has been included on a list of natural disasters published on the website of the Department of Immigration and Border Protection and the application is made within 18 months of the date specified for that disaster on the published list.

Subregulation 12AA(2) provides the evidentiary requirements in relation to an application made under subregulation 12AA(1). Under this subregulation an applicant is required to provide a statutory declaration in relation to the loss of evidence of their Australian Citizenship. To ensure the integrity of Australian Citizenship evidence, where the evidence of Australian Citizenship has been damaged (but not necessarily lost or destroyed) due to a natural disaster the applicant is required to provide the damaged evidence with their application. Applicants will still be required to satisfy the Minister as to their identity in accordance with subsection 37(4) of the Citizenship Act and meet application requirements in accordance with section 46(1).

The note following subregulation 12AA(2) stipulates that in circumstances where this regulation applies, no fee is payable and directs the reader to Schedule 3 of the Citizenship Regulations which deals with the amounts to accompany certain applications.

A range of Commonwealth as well as State and Territory agencies make provision for the replacement of documents that have been lost during, or damaged by, a natural disaster.

The amendments are intended to cater for applicants whose previous evidence of citizenship was lost or damaged as a result of certain natural disasters, such as a bushfire or flood. The requirement for the natural disaster to be published on the website is intended to limit the circumstances where no fee is payable. The intention of this arrangement is to encourage affected applicants to make an application in a timely manner.

To be eligible for the nil fee, an application must be received within 18 months of the date specified on the published list of natural disasters on the Department of Immigration and Border Protection website. Applications for replacement evidence of citizenship can continue to be made after this time and will attract the appropriate fee in accordance with the relevant table item in Schedule 3 of the Citizenship Regulations.

Schedule 5 – Amendments related to nominated positions

Item 1 – Sub-subparagraph 5.19(4)(h)(ii)(D)

This item repeals and substitutes sub-subparagraph 5.19(4)(h)(ii)(D). Previous sub-subparagraph 5.19(4)(h)(ii)(D) provided that the tasks to be performed in the position correspond to the tasks of an occupation at a skill level of ANZSCO skill level 1, 2 or 3. Amended sub-subparagraph 5.19(4)(h)(ii)(D) provides that the tasks to be performed in the position correspond to the tasks of an occupation specified by the Minister in an instrument in writing.

The effect of this amendment is to provide for a new legislative instrument making power specifying which occupations are eligible to be nominated for the Direct Entry stream of the Subclass 187 (Regional Sponsored Migration Scheme) visa (Subclass 187 visa).

The purpose of this amendment is to ensure that the Minister has the flexibility to specify occupations that are eligible occupations for employer nomination for the Subclass 187 visa.

Item 2 – Subparagraph 187.233(1)(a)(i) of Schedule 2

This item makes a technical amendment to subparagraph 187.233(1)(a)(i) of Schedule 2 to omit the reference to “5.19(4)(h) ii)” and substitute “5.19(4)(h)(ii)”

The purpose of this amendment is to correct the typographical error.

Schedule 6 – Amendments relating to tribunals amalgamation

Part 1 – Main amendments

Migration Agents Regulations 1998

Item 1 – Subregulation 7B(4)(d)

This item amends paragraph 7B(4)(d) in Part 3 of the *Migration Agents Regulations 1998* (the Migration Agents Regulation) by omitting references to the RRT and the MRT. Those tribunals cease to exist on 1 July 2015, at which time they are amalgamated with the Administrative Appeals Tribunal (AAT). Pursuant to Schedule 2 to the *Tribunals Amalgamation Act 2015* (the Amalgamation Act), the AAT inherits the review jurisdiction of the MRT and RRT from 1 July 2015.

Paragraph 7B(4)(d) refers to "the Tribunal" which is a reference to the AAT. From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal". This change is made by item 8 of Part 1 of Schedule 2 to the *Amalgamation Act*. The definition of Tribunal in the Migration Act applies to the *Migration Agents Regulations 1998* pursuant to paragraph 13(1)(b) of the *Legislative Instruments Act 2003*.

Item 2 – At the end of subregulation 7B(4)

This item adds a note at the end of subregulation 7B(4) in Part 3 of the Migration Agents Regulations to clarify that "Tribunal" is defined in subsection 5(1) of the Migration Act. Subsection 5(1) provides that "Tribunal" means the AAT. The amendment is consequential to Schedule 2 to the *Amalgamation Act*.

Item 3 – Regulation 7H

This item amends regulation 7H in Part 3 of the Migration Agents Regulations by replacing references to the RRT and MRT with references to the AAT. The amendment is consequential to Schedule 2 to the Amalgamation Act.

Item 4– At the end of regulation 7H

This item adds two notes at the end of regulation 7H in Part 3 of the *Migration Agents Regulations 1998*. The first note deals with the obligation of a migration agent, under section 312B of the Migration Act, to notify the AAT that the agent is representing an applicant for review. The note clarifies that the obligation under section 312B only arises in relation to an application for review of a Part 5-reviewable decision or a Part 7-reviewable decision. This terminology is used, from 1 July 2015, to describe the former jurisdiction of the MRT and RRT which is transferred to the AAT on 1 July 2015.

The second note clarifies that "Tribunal" is defined in subsection 5(1) of the Migration Act. Subsection 5(1) provides that "Tribunal" means the AAT.

Migration Regulations 1994

Item 5 – Regulation 1.03

This item inserts a definition of "outstanding" in regulation 1.03 in Division 1.2 of Part 1 of the Migration Regulations. The purpose of the definition is to streamline the drafting of provisions in Schedule 2 to the Migration Regulations (see items 33 to 50

below). The effect of the definition is that a parent visa application is outstanding if it remains to be decided by the Minister or is subject to merits review by the AAT, or judicial review by a court. This restates an existing requirement in Schedule 2. The definition has been inserted to streamline the drafting. It also makes consequential changes to replace references to the MRT with references to the AAT.

Item 6 – Subparagraph 2.08F(3)(b)(i)

This item amends subparagraph 2.08F(3)(b)(i) in Division 2.2 of Part 2 of the the Migration Regulations to replace a reference to "Refugee Review Tribunal" with a reference to "Tribunal". From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal". This change is made by item 8 of Part 1 of Schedule 2 to the *Amalgamation Act*. The definition of Tribunal in the Migration Act applies to the Migration Regulations pursuant to paragraph 13(1)(b) of the *Legislative Instruments Act 2003*.

Item 7 – Division 4.1 (note to Division heading)

This item substitutes the note below the heading of Division 4.1 of Part 4 of the Migration Regulations. The note previously stated: "*This Division of Part 4 deals with review of visa decisions. It refers to the definition of* ***MRT-reviewable decision*** *in Division 2 of Part 5 of the Act. Review of decisions relating to protection visas is dealt with in Division 4.2*". As amended, the note omits the reference to "MRT-reviewable decision". That term is no longer used, because the MRT ceases to exist on 1 July 2015. The replacement term used from 1 July 2015, is "Part 5-reviewable decision" which, from 1 July 2015, is defined in subsection 5(1) and section 338 of the Migration Act. However, in this item, an editorial decision was taken to omit the reference. The meaning of the note is unchanged.

Item 8 – Regulation 4.02 (heading)

This item substitutes the heading of regulation 4.02 in Division 4.1 of Part 4 of the Migration Regulations. As amended, the heading replaces the reference to "MRT-reviewable decisions" with a reference to "Part 5-reviewable decisions". The term "MRT-reviewable decision" is no longer used, because the MRT ceases to exist on 1 July 2015. The replacement term used from 1 July 2015, is "Part 5-reviewable decision" which, from 1 July 2015, is defined in subsection 5(1) and section 338 of the Migration Act.

Item 9 – Paragraphs 4.11(1)(a), (c), (d) and (e)

This item amends paragraphs 4.11(1)(a), (c), (d) and (e) in Division 4.1 of Part 4 of the Migration Regulations by replacing references to the Principal Member of the MRT with references to the President of the AAT. The amendment is consequential to Schedule 2 to the *Amalgamation Act*.

Items 10, 11and 12 – Subregulation 4.13(4); Subregulation 4.14(1) (cell at table item 1, column headed "If …")

These items amend subregulations 4.13(4) and 4.14(1) in Division 4.1 of Part 4 of the Migration Regulations to provide that the Registrar of the AAT can exercise the power to waive part of the application fee for review of a Part 5-reviewable decision. Prior to amendment, the power was conferred on the Registrar of the MRT, the Deputy Registrar of the MRT, and any officer authorised in writing by the Registrar. The amendments are consequential to the transfer of the MRT's jurisdiction to the AAT on 1 July 2015. The amendments also simplify the provision by vesting the power to grant a fee waiver in one position, i.e. the Registrar. The Registrar may delegate this function pursuant to subsection 10A(2) of the *Administrative Appeals Tribunal Act 1975*, as amended by the Amalgamation Act.

Item 13 – Subregulations 4.15(3) and 4.15(4)

These items amend subregulations 4.15(3) and 4.15(4) in Division 4.1 of Part 4 of the Migration Regulations to replace reference to the "MRT" with reference to the "Tribunal". From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal". This change is made by item 8 of Part 1 of Schedule 2 to the *Amalgamation Act*.

Item 14 – Division 4.2 (heading)

This item substitutes the heading of Division 4.2 in Part 4 of the Migration Regulations. The amended heading omits reference to the RRT. The amendment is consequential to Schedule 2 to the Amalgamation Act which repeals the provisions establishing the RRT.

Item 15 – Paragraphs 4.31AA(1)(a), (c), (d), and (e)

This item amends paragraphs 4.31AA(1)(a), (c), (d) and (e) in Division 4.2 of Part 4 of the Migration Regulations by replacing references to the Principal Member of the RRT with references to the President of the AAT. The amendment is consequential to Schedule 2 to the Amalgamation Act which repeals the provisions establishing the RRT.

Items 16 and 17 – Subregulation 4.33(2); Subregulations 4.33(3), (4) and (5)

These items amend subregulation 4.33(2) and subregulations 4.33(3), (4) and (5) in Division 4.2 of Part 4 of the Migration Regulations to remove references to AAT decision-making in matters referred to the AAT by the RRT. The amendment is consequential to Schedule 2 to the *Amalgamation Act* which repeals the referral provisions on 1 July 2015.

Item 18 - Subregulation 4.39(2)

This item amends subregulation 4.39(2) in Division 4.2 of Part 4 of the Migration Regulations to provide that an applicant may lodge an address for service with the AAT in relation to an application for review of a Part 5-reviewable decision or a Part 7-

reviewable decision. The amendment is consequential to Schedule 2 to the Amalgamation Act.

Item 19 - Subregulation 5.19(6) (note)

This item amends the note under subregulation 5.19(6) of Division 5.3 of Part 5 of the Migration Regulations to replace the reference to an "MRT-reviewable decision" with a reference to a "Part 5-reviewable decision". The term "MRT-reviewable decision" is no longer used, because the MRT ceases to exist on 1 July 2015. The replacement term used from 1 July 2015, is "Part 5-reviewable decision" which, from 1 July 2015, is defined in subsection 5(1) and section 338 of the Migration Act. The amendment is consequential to Schedule 2 to the *Amalgamation Act*.

Item 20 – Subparagraphs 1128(3)(e)(ii) and 1216(3)(d)(ii) of Schedule 1

This item amends subparagraphs 1128(3)(e)(ii) and 1216(3)(d)(ii) of Schedule 1 to the Migration Regulations to replace references to "AAT" with references to "Tribunal". This is a technical amendment to reflect the fact that, from 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal".

Items 21 to 32 - Division 010.1 of Schedule 2; Subparagraph 010.511(b)(iii) of Schedule 2; Subclass 020 of Schedule 2; Clause 020.111 of Schedule 2; Subparagraph 020.511(b)(iii) of Schedule 2; Division 030.1 of Schedule 2; Subparagraph 030.511(b)(iii) of Schedule 2; Division 050.1 of Schedule 2; Subparagraphs 050.511(b)(iii) and (iiia) of Schedule 2; Division 051.1 of Schedule 2; Paragraph 051.511(b) of Schedule 2; Paragraph 051.513(1)(b) of Schedule 2

These items amend the identified provisions in Schedule 2 to the Migration Regulations to remove redundant definitions of "review authority" and to make other consequential changes which reflect the position from 1 July 2015, when the only tribunal reviewing visa decisions will be the AAT. Accordingly, references to "review authority" are replaced by references to "the Tribunal". From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal".

Items 33 to 50 – Division 103.1 of Schedule 2 (note); Clause 103.229 of Schedule 2; Clause 103.327 of Schedule 2; Clause 143.111 of Schedule 2 (note); Clause 143.232 of Schedule 2; Clause 143.329 of Schedule 2; Division 173.1 of Schedule 2 (note); Clause 173.229 of Schedule 2; Clause 173.326 of Schedule 2; Clause 804.111 of Schedule 2 (note); Clause 804.228 of Schedule 2; Clause 804.326 of Schedule 2; Clause 864.111 of Schedule 2 (note); Clause 864.230 of Schedule 2; Clause 864.329 of Schedule 2; Division 884.1 of Schedule 2 (note); Clause 884.229 of Schedule 2; Clause 884.325 of Schedule 2

These items, apart from the changes to the notes, substitute the identified provisions in Schedule 2 to the Migration Regulations to give effect to the new definition of "outstanding" in regulation 1.03 (see item 5 above). The new provisions have been redrafted to remove references to the MRT, which ceases to exist on 1 July 2015

pursuant to Schedule 2 to the Amalgamation Act. The legal effect of the clauses is unchanged. The clauses continue to specify, as a criterion for the grant of a parent visa, that any previous application for another parent visa has been finalised, meaning that it has been withdrawn by the applicant or is no longer subject to merits review or judicial review. The amendments to the notes are to clarify that "outstanding" is defined in regulation 1.03.

Item 51 – Subclause 4020(1) of Schedule 4

This item amends subclause 4020(1) in Part 1 of Schedule 4 to the Migration Regulations to replace the reference to "Migration Review Tribunal" with a reference to "Tribunal during the review of a Part 5-reviewable decision". "Tribunal" is defined, from 1 July 2015, in subsection 5(1) of the Migration Act, to mean the AAT.

The purpose of the amendment is to replace the reference to the MRT, which ceases to exist on 1 July 2015, with a reference to the AAT, but without changing the meaning of subclause 4020(1). Prior to amendment, the subclause provided a basis for visa refusal if the applicant provided a bogus document or false or misleading information to the MRT. To mirror this provision, it is necessary to refer to bogus documents or false or misleading information given to the AAT "during the review of a Part 5-reviewable decision". This identifies the jurisdiction of the former MRT which is transferred to the AAT from 1 July 2015. The amendment ensures that there is no change to the scope or operation of subclause 4020(1) as a result of the Tribunals amalgamation.

Part 2 – Multiple amendments

Division 1 – References to Migration Review Tribunal

Migration Regulations 1994

Item 52 – Amendments of listed provisions

This item amends various provisions in the Migration Regulations to replace references to the "Migration Review Tribunal" with references to "Tribunal". Pursuant to the Amalgamation Act, the MRT ceases to exist on 1 July 2015. From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal". This change is made by item 8 of Part 1 of Schedule 2 to the Amalgamation Act. The definition of Tribunal in the Migration Act applies to the Migration Regulations pursuant to paragraph 13(1)(b) of the *Legislative Instruments Act 2003*.

Division 2 – References to MRT-reviewable decisions

Migration Regulations 1994

Item 53 – Amendments of listed provisions

This item amends various provisions in the Migration Regulations to replace references to "MRT-reviewable decision" with references to "Part 5-reviewable decision". Pursuant to the *Amalgamation Act*, the MRT ceases to exist on 1 July 2015 and its

jurisdiction is transferred to the AAT. Accordingly, the term "MRT-reviewable decision" is no longer appropriate. The replacement term used from 1 July 2015, is "Part 5-reviewable decision" which, from 1 July 2015, is defined in subsection 5(1) and section 338 of the Migration Act. The amendments are consequential to Schedule 2 to the *Amalgamation Act*.

Division 3 – References to review authority

Migration Regulations 1994

Item 54 – Amendments of listed provisions

This item amends various provisions in the Migration Regulations to replace references to "a review authority" with references to "the Tribunal". The amendments reflect the fact that, from 1 July 2015, the only tribunal reviewing visa decisions will be the AAT. Accordingly, references to "review authority" are replaced by references to "the Tribunal". From 1 July 2015, "Tribunal" is defined in subsection 5(1) of the Migration Act as "***Tribunal*** means the Administrative Appeals Tribunal".

Division 4 – References to redundant provisions

Migration Regulations 1994

Item 55 – Amendments of listed provisions

This item amends various provisions in the Migration Regulations to remove references to sections 391 and 454 of the Migration Act. The sections provide the Minister with a power to substitute a different decision for a decision of the AAT in a matter which has been referred to the AAT from the MRT or RRT. The referral provisions, including sections 391 and 454, are repealed on 1 July 2015 by Schedule 2 to the *Amalgamation Act*.

Division 5 – References to RRT-reviewable decisions

Migration Regulations 1994

Item 56 – Amendments of listed provisions

This item amends various provisions in the Migration Regulations to replace references to "MRT-reviewable decision" with references to "Part 7-reviewable decision". Pursuant to the *Amalgamation Act*, the RRT ceases to exist on 1 July 2015 and its jurisdiction is transferred to the AAT. Accordingly, the term "RRT-reviewable decision" is no longer appropriate. The replacement term used from 1 July 2015, is "Part 7-reviewable decision" which, from 1 July 2015, is defined in subsection 5(1) and section 411 of the Migration Act. The amendments are consequential to Schedule 2 to the *Amalgamation Act*.

Division 6 – Repeals

Migration Regulations 1994

Item 57 – Amendments of listed provisions

This item omits various provisions from the Migration Regulations. The omitted provisions are redundant following the amalgamation of the MRT and RRT with the AAT on 1 July 2015. The amendments are consequential to Schedule 2 to the Amalgamation Act.

Schedule 7 – Amendments related to visa application charges

This Schedule gives effect to the Government's decision as part of the 2015-16 Budget to adjust the price of a number of Visa Application Charges ('VAC') as follows:

- a broad range of visas, including Permanent Migration Skill Stream, Skilled Graduate, Temporary Long Stay Business (Subclass 457), Visitor and Student visas, has increased by inflation (2.3 per cent);
- Temporary Resident Short Term Business and Entertainment visas, Working Holiday visas, Resident Return and Retirement Investor visas, and Contributory Parent visas has increased by 5 per cent;
- Other Family (Remaining Relative, Carer and Aged Dependent Relative) visas, and (non-contributory) Parent visas has increased by 10 per cent;
- Significant Investor stream in the Subclass 188 (Business Innovation and Investment (Provisional)) visa has increased 50 per cent; and
- align VAC prices where a difference exists between onshore and offshore applications for a visa subclass after the above increases are applied.

These changes are made in lieu of indexation of all VACs for 2015.

All increases are rounded to a multiple of $5.00 according to the following methodology:

- if the amount of the charge calculated under this formula is not a multiple of $5.00, and if the amount exceeds the nearest lower multiple of $5.00 by $2.50 or more, the amount is rounded up to the nearest $5.00;
- in any other case, where the charge calculated under the formula is not a multiple of $5.00, the amount is rounded down to the nearest lower multiple of $5.00.

The amount of the increase in these items does not exceed the applicable charge limit set out in the *Migration (Visa Application) Charge Act 1997*.

Item 1 and 2 – Amendments of listed provisions – changes to visa application charges

These items amend the provisions in Part 1 of Schedule 1 to the Migration Regulations to increase the first instalment of the visa application charge (VAC).

Columns 1 and 2 of the tables below list the visa classes and the names of the visa subclasses that are amended. The intention is to only impact the visa subclasses listed in Column 2, even if other visa subclasses fall within the visa class listed in column 1.

Column 3 of the table below lists the provisions that are amended by this Regulation to increase the VAC. Columns 4 and 5 of the table list the previous VAC and the new VAC.

Amendments of listed provisions – changes to visa application charges

Column 1	Column 2	Column 3	Column 4	Column 5
Visa Class	**Visa Subclasses impacted**	**Provision in Part 1 of Schedule 1 to the Migration Regulations**	**Previous VAC**	**New VAC**
Business Skills – Business Talent (Permanent) (Class EA)	Subclass 132 (Business Talent) visa	Paragraph 1104AA (2) (a), table item 1	$6 830	$6 990
		Paragraph 1104AA (2) (a), table item 2	$3 415	$3 495
		Paragraph 1104AA (2) (a), table, item 3	$1 710	$1 745
Business Skills (Permanent) (Class EC)	Subclass 888 (Business Innovation and Investment (Permanent)) visa	Paragraph 1104BA (2) (a) table item 1	$2 255	$2 305
		Paragraph 1104BA (2) (a) table item 2	$1 130	$1 155
		Paragraph 1104BA (2) (a) table item 3	$565	$575
Child (Residence) (Class BT)	Subclass 802 (Child) visa	Subparagraph 1108A (2) (a) (iv) table item 1	$3 520	$2 370
		Subparagraph 1108A (2) (a) (iv) table item 2	$1 760	$1 185
		Subparagraph 1108A (2) (a) (iv) table item 3	$880	$595
Distinguished Talent (Migrant) (Class AL)	Subclass 124 (Distinguished Talent) visa	Paragraph 1112 (2) (a) table item 1	$2 410	$3 655
		Paragraph 1112 (2) (a) table item 2	$1 205	$1 830
		Paragraph 1112 (2) (a) table item 3	$605	$915
Distinguished Talent (Residence) (Class BX)	Subclass 858 (Distinguished Talent) visa	Paragraph 1113 (2) (a) table item 1	$3 575	$3 655
		Paragraph 1113 (2) (a) table item 2	$1 790	$1 830
		Paragraph 1113 (2) (a) table item 3	$895	$915
Employer Nomination (Permanent) (Class EN)	Subclass 186 (Employer Nomination Scheme) visa	Paragraph 1114B (2) (a) table item 1	$3 520	$3 600
		Paragraph 1114B (2) (a) table item 2	$1 760	$1 800
		Paragraph 1114B (2) (a) table item 3	$880	$900

Column 1	Column 2	Column 3	Column 4	Column 5
Regional Employer Nomination (Permanent) (Class RN)	Subclass 187 (Regional Sponsored Migration Scheme) visa	Paragraph 1114C (2) (a) table item 1	$3 520	$3 600
		Paragraph 1114C (2) (a) table item 2	$1 760	$1 800
		Paragraph 1114C (2) (a) table item 3	$880	$900
Special Eligibility (Class CB)	Subclass 151 (Former Resident) visa (Offshore)	Subparagraph 1118A (2) (a) (ii) table item 1	$2 370	$3 520
		Subparagraph 1118A (2) (a) (ii) table item 2	$1 185	$1 760
		Subparagraph 1118A (2) (a) (ii) table item 3	$595	$880
Other Family (Migrant) (Class BO)	Subclass 116 (Carer) visa	Subparagraph 1123A (2) (a) (i) table item 1	$1 450	$1 595
		Subparagraph 1123A (2) (a) (i) table item 2	$725	$800
		Subparagraph 1123A (2) (a) (i) table item 3	$365	$400
	Subclass 114 (Aged Dependent Relative) and Subclass 115 (Remaining Relative) visa	Subparagraph 1123A (2) (a) (ii) table item 1	$2 370	$3 870
		Subparagraph 1123A (2) (a) (ii) table item 2	$1 185	$1 935
		Subparagraph 1123A (2) (a) (ii) table item 3	$595	$970
Other Family (Residence) (Class BU)	Subclass 836 (Carer) visa	Subparagraph 1123B (2) (a) (i) table item 1	$1 450	$1 595
		Subparagraph 1123B (2) (a) (i) table item 2	$725	$800
		Subparagraph 1123B (2) (a) (i) table item 3	$365	$400
	Subclass 835 (Remaining Relative) visa and Subclass 838 (Aged Dependent Relative) visa	Subparagraph 1123B (2) (a) (ii) table item 1	$3 520	$3 870
		Subparagraph 1123B (2) (a) (ii) table item 2	$1 760	$1 935
		Subparagraph 1123B (2) (a) (ii) table item 3	$880	$970
Parent (Migrant) (Class AX)	Subclass 103 (Parent) visa	Paragraph 1124 (2) (a) table item 1	$2 370	$3 870
		Paragraph 1124 (2) (a) table item 2	$1 185	$1 935
		Paragraph 1124 (2) (a) table item 3	$595	$970
Aged Parent (Residence) (Class BP)	Subclass 804 (Aged Parent) visa	Paragraph 1124A (2) (a) table item 1	$3 520	$3 870
		Paragraph 1124A (2) (a) table item 2	$1 760	$1 935
		Paragraph 1124A (2) (a) table item 3	$880	$970

Column 1	Column 2	Column 3	Column 4	Column 5
Return (Residence) (Class BB)	Subclass 155 (Five Year Resident Return) visa and Subclass 157 (Three Month Resident Return) visa	Paragraph 1128 (2) (a)	$345	360
Partner (Migrant) (Class BC)	Subclass 100 (Partner) visa	Subparagraph 1129 (2) (a) (ii) table item 1	$4 630	$6 865
		Subparagraph 1129 (2) (a) (ii) table item 2	$2 320	$3 435
		Subparagraph 1129 (2) (a) (ii) table item 3	$1 155	$1 720
Contributory Parent (Migrant) (Class CA)	Subclass 143 (Contributory Parent) visa	Subparagraph 1130 (2) (a) (vi) table item 1	$3 520	$3 695
		Subparagraph 1130 (2) (a) (vi) table item 2	$1 185	$1 245
		Subparagraph 1130 (2) (a) (vi) table item 3	$595	$625
Contributory Aged Parent (Residence) (Class DG)	Subclass 864 (Contributory Aged Parent) visa	Subparagraph 1130A (2) (a) (v) table item 1	$3 520	$3 695
		Subparagraph 1130A (2) (a) (v) table item 2	$1 760	$1 845
		Subparagraph 1130A (2) (a) (v) table item 3	$880	$925
		Subparagraph 1130A (2) (a) (vi) table item 1	$3 520	$3 695
		Subparagraph 1130A (2) (a) (vi) table item 2	$1 760	$1 845
		Subparagraph 1130A (2) (a) (vi) table item 3	$880	$925
Skilled — Independent (Permanent) (Class SI)	Subclass 189 (Skilled — Independent) visa	Paragraph 1137 (2) (a) table item 1	$3 520	$3 600
		Paragraph 1137 (2) (a) table item 2	$1 760	$1 800
		Paragraph 1137 (2) (a) table item 3	$880	$900
Skilled — Nominated (Permanent) (Class SN)	Subclass 190 (Skilled — Nominated) visa	Paragraph 1138 (2) (a) table item 1	$3 520	$3 600
		Paragraph 1138 (2) (a) table item 2	$1 760	$1 800
		Paragraph 1138 (2) (a) table item 3	$880	$900
Business Skills (Provisional) (Class EB)	Subclass 188 (Business Innovation and Investment (Provisional)) visa (except for the Significant Investor Stream)	Subparagraph 1202B (2) (a) (ii) table item 1	$4 675	$4 780
		Subparagraph 1202B (2) (a) (ii) table item 2	$2 340	$2 390
		Subparagraph 1202B (2) (a) (ii) table item 3	$1 170	$1 195
	Subclass 188 (Business Innovation and	Subparagraph 1202B (2) (a) (ii) table item 1	$4 675	$7 010

Column 1	Column 2	Column 3	Column 4	Column 5
	Investment (Provisional)) visa (only for the Significant Investor Stream)	Subparagraph 1202B (2) (a) (ii) table item 2	$2 340	$3 505
		Subparagraph 1202B (2) (a) (ii) table item 3	$1 170	$1 755
Prospective Marriage (Temporary) (Class TO)	Subclass 300 (Prospective Marriage) visa	Paragraph 1215 (2) (a) table item 1	$4 630	$6 865
		Paragraph 1215 (2) (a) table item 2	$2 320	$3 435
		Paragraph 1215 (2) (a) table item 3	$1 155	$1 720
Contributory Parent (Temporary) (Class UT)	Subclass 173 (Contributory Parent (Temporary)) visa	Subparagraph 1221 (2) (a) (iii) table item 1	$2 370	$2 490
		Subparagraph 1221 (2) (a) (iii) table item 2	$1 185	$1 245
		Subparagraph 1221 (2) (a) (iii) table item 3	$595	$625
Contributory Aged Parent (Temporary) (Class UU)	Subclass 884 (Contributory Aged Parent (Temporary)) visa	Subparagraph 1221A (2) (a) (iii) table item 1	$3 520	$3 695
		Subparagraph 1221A (2) (a) (iii) table item 2	$1 760	$1 845
		Subparagraph 1221A (2) (a) (iii) table item 3	$880	$925
Student (Temporary) (Class TU)	Visa Subclasses 570 (Independent ELICOS Sector), 571) Schools Sector), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector), 574 (Postgraduate Research Sector), 575 (Non-Award Sector), and 580 (Student Guardian).	Subparagraph 1222 (2) (a) (x) table item 1	$535	$550
		Subparagraph 1222 (2) (a) (x) table item 4	$405	$410
Temporary Business Entry (Class UC)	Subclass 457 (Temporary Work (Skilled)) visa	Paragraph 1223A (2) (a) table item 1	$1 035	$1 060
		Paragraph 1223A (2) (a) table item 2	$1 035	$1 060
		Paragraph 1223A (2) (a) table item 3	$260	$265
Work and Holiday (Temporary) (Class US)	Subclass 462 (Work and Holiday) visa	Paragraph 1224A (2) (a)	$420	$440
Working Holiday (Temporary) (Class TZ)	Subclass 417 (Working Holiday) visa	Paragraph 1225 (2) (a)	$420	$440
Skilled (Provisional) (Class VC)	Subclass 485 (Temporary Graduate) visa	Paragraph 1229 (2) (a) table item 1	$1 440	$1 470
		Paragraph 1229 (2) (a) table item 2	$720	$735

Column 1	Column 2	Column 3	Column 4	Column 5
		Paragraph 1229 (2) (a) table item 3	$360	$370
Skilled — Regional Sponsored (Provisional) (Class SP)	Subclass 489 (Skilled — Regional (Provisional)) visa	Paragraph 1230 (2) (a) (ii) table item 1	$3 520	$3 600
		Paragraph 1230 (2) (a) (ii) table item 2	$1 760	$1 800
		Paragraph 1230 (2) (a) (ii) table item 3	$880	$900
Temporary Work (Short Stay) (Class GA)	Subclass 400 (Temporary Work (Short Stay Activity)) visa	Paragraph 1231 (2) (a) (v) table item 1	$165	$175
		Paragraph 1231 (2) (a) (v) table item 2	$85	$90
		Paragraph 1231 (2) (a) (v) table item 3	$40	$45
Temporary Work (Long Stay Activity) (Class GB)	Subclass 401 (Temporary Work (Long Stay Activity)) visa	Subparagraph 1232 (2) (a) (i) table item 1	$3 600	$3 800
		Subparagraph 1232 (2) (a) (i) table item 2	$360	$380
		Subparagraph 1232 (2) (a) (i) table item 3	$90	$95
		Subparagraph 1232 (2) (a) (iii) table item 1	$360	$380
		Subparagraph 1232 (2) (a) (iii) table item 2	$360	$380
		Subparagraph 1232 (2) (a) (iii) table item 3	$90	$95
Training and Research (Class GC)	Subclass 402 (Training and Research) visa	Paragraph 1233 (2) (a) table item 1	$360	$380
		Paragraph 1233 (2) (a) table item 2	$180	$190
		Paragraph 1233 (2) (a) table item 3	$90	$95
Temporary Work (International Relations) (Class GD)	Subclass 403 (Temporary Work (International Relations)) visa	Subparagraph 1234 (2) (a) (vi) table item 1	$360	$380
Temporary Work (Entertainment) (Class GE)	Subclass 420 (Temporary Work (Entertainment)) visa	Subparagraph 1235 (2) (a) (iv) table item 1	$3 600	$3 800
		Subparagraph 1235 (2) (a) (iv) table item 2	$360	$380
		Subparagraph 1235 (2) (a) (iv) table item 3	$90	$95
		Subparagraph 1235 (2) (a) (v) table item 1	$360	$380
		Subparagraph 1235 (2) (a) (v) table item 2	$360	$380
		Subparagraph 1235 (2) (a) (v) table item 3	$90	$95
Visitor (Class FA)	Subclass 600 (Visitor) visa	Subparagraph 1236 (2) (a) (i)	$335	$340

Column 1	Column 2	Column 3	Column 4	Column 5
		Subparagraph 1236 (2) (a) (ii)	$130	$135

Schedule 8 – Amendments related to international airports

Item 1 – Section 4 (paragraph (i) of the definition of *international airport*)
This item amends the definition of "international airport" by including two additional airports: Sunshine Coast (Maroochydore) Airport and Townsville Airport in the Customs Regulation 2015 (the Customs Regulation).
The purpose of the amendment is to allow the additional airports to be considered "international airports" for the purposes of section 28 of the Customs Act and subsection 12(1) of the Custom Regulation. Section 28 of the Customs Act provides that the Custom Regulation may prescribe the days on which, and the times between which, officers are to be available to perform specified functions at specified locations. Work performed outside these specified locations and times attract location and overtime fees which are recoverable by the Australian Customs and Border Protection Service (ACBPS). Subsection 12(1) of the Customs Regulation prescribes functions for section 28, including functions at "international airports".

The effect of the amendment is to allow the provision of customs services such as biosecurity and border clearance activities to be provided at these airports as part of the prescribed functions for section 28 of the Customs Act. This is to remove the ability for cost recovery by ACBPS for the provision of customs services at Sunshine Coast (Maroochydore) and Townsville Airports.

Schedule 9 – Miscellaneous amendments

Item [1] – Subregulation 5.40(1)

This item omits a reference to "an Agency within the meaning of the *Financial Management and Accountability Act 1997*" and substitutes "a non-corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*" into subregulation 5.40(1) of the Migration Regulations.

The item is consequential to the commencement of the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act), which replaced the *Financial Management and Accountability Act 1997.* The purpose of the item is to update references to the PGPA Act and to replace a reference to "an Agency" with "a non-corporate Commonwealth entity".

Item [2] – Paragraph 1404(3)(f) of Schedule 1 (note 2)

This item corrects a typographical error made by a previous amending Regulation by omitting a reference to "subparagraph (iii)" in the note to paragraph 1404(3)(f) of Schedule 1 to the Migration Regulations and substituting a reference to "subparagraph (iv)".

Schedule 10 – Application and transitional provisions

Item 1 – Amendments to Part 4

This item amends Part 4 of the Citizenship Regulations to insert regulation 28 entitled 'Amendments made by the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015'*.

Inserted regulation 28 provides that the amendments of the Citizenship Regulations made by Schedule 3 to the Regulation apply in relation to an application made under Division 2, 3 or 5 of Part 2 of the *Australian Citizenship Act 2007* on or after 1 July 2015.

Inserted regulation 28 also provides that amendments of these Regulations made by Schedule 4 to the Regulation apply in relation to an application made under section 37 of the *Australian Citizenship Act 2007* on or after 1 July 2015.

The effect and purpose of the item is to clarify to whom and when the amendments in these Schedules apply.

Item 2 – Amendments to Schedule 13

This item amends Schedule 13 to the Migration Regulations to insert Part 43 entitled 'Amendments made by the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015'* and inserts new clauses 4301, 4302, 4303 and 4304.

Inserted clause 4301, entitled 'Operation of Schedule 1', provides that the amendments of the Migration Regulations made by Schedule 1 to the Regulation apply in relation to an application for a visa made on or after 1 July 2015.

Inserted clause 4302, entitled 'Operation of Schedule 5', provides that the amendments of the Migration Regulations made by Schedule 5 to the Regulation apply to an application for approval of a nomination of a position made on or after 1 July 2015.

Inserted clause 4303, entitled 'Operation of Schedule 7', provides that the amendments of the Migration Regulations made by Schedule 7 to the Regulation apply to an application for a visa made on or after 1 July 2015.

Inserted clause 4304, entitled 'Operation of Schedule 9' provides that the amendment made by item 1 of Schedule 9 to the Regulation does not affect the continuity of any instrument that is in force under that provision immediately before the commencement of the item.

The effect and purpose of this item is to clarify to whom the amendments in these Schedules apply.