



Commonwealth of Australia

Migration Regulations 1994

CLASS OF PERSONS 2016/015

(Subitem 1222(5))

I, *PETER DUTTON*, Minister for Immigration and Border Protection, acting under subitem 1222(5) of Schedule 1 to the *Migration Regulations 1994* (the Regulations):

1. SPECIFY for the purposes of 1222(5)(a) of Schedule 1 to the Regulations, the following class of persons, Class 1 Students, to which subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies, to be:
 - a. an applicant seeking to satisfy primary criteria for grant of a Subclass 500 (Student) visa (Subclass 500 visa):
 - i. who has been granted approval under a students' training scheme approved by the Commonwealth, to study in Australia; or
 - ii. who is a Foreign Affairs student, as defined in subregulation 1.04A(3) of the Regulations, to whom subparagraph 1.04A(3)(b)(ii) applies; or
 - iii. who is a Defence student, as defined in regulation 1.04B of the Regulations, to whom subparagraph 1.04B(b)(ii) applies; or
 - iv. who is a secondary exchange student, as defined in regulation 1.03 of the Regulations; or
 - v. where each of the following circumstances applies:
 - A. the student was not able to complete a registered course, as defined in regulation 1.03 of the Regulations, due to provider default; and
 - B. there is satisfactory evidence that the student was enrolled in that course on the provider default day; and
 - C. the student holds a Student visa, or the student's last substantive visa was a Student visa; and
 - D. the student requires a Subclass 500 visa to allow him or her to complete either an alternative registered course; or one or more registered courses after an alternative registered course; and
 - E. the student's visa application is made no later than 12 months after the provider default day; and
 - F. the student has not made a previous application in the circumstances specified in subparagraph 1(a)(v) of this Instrument because of the same provider default described in sub-subparagraph 1(a)(v)(A) of this Instrument.

2. SPECIFY for the purposes of 1222(5)(a) of Schedule 1 to the Regulations the following class of persons, Class 2 Students' Family Members, to which subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies, to be:
 - a. An applicant seeking to satisfy the secondary criteria for a Subclass 500 visa who:
 - i. is a member of a family unit, as defined in regulation 1.12 of the Regulations, of an applicant defined in Item 1 of this Instrument and who is making a combined application with the student; or
 - ii. is a member of a family unit of a Foreign Affairs student, or a Defence student including:
 - A. applicants who are making a combined application; and
 - B. applicants applying as subsequent entrants; or
 - iii. is a member of a family unit making a combined application with a Subclass 500 visa applicant who is seeking to satisfy the primary criteria and is enrolled in a postgraduate research course.

3. SPECIFY for the purposes of 1222(5)(a) of Schedule 1 to the Regulations, the following class of persons, Class 3 Student Guardians, to which subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies, to be:
 - a. An applicant seeking to satisfy the primary criteria for a Subclass 590 (Student Guardian) visa (Subclass 590 visa) where each of the following applies:
 - i. the nominating student was not able to complete a registered course due to a provider default; and
 - ii. there is satisfactory evidence that the nominating student was enrolled in that course on the provider default day; and
 - iii. the nominating student holds a Student visa, or the nominating student's last substantive visa was a Student visa; and
 - iv. the nominating student requires a Subclass 500 visa to allow him or her to complete an alternative registered course; or one or more registered course after an alternative registered course; and
 - v. the applicant's visa application is made no later than 12 months after the provider default day; and
 - vi. the applicant has not made a previous application in the circumstances specified in paragraph 3(a) of this Instrument because of the same provider default specified in subparagraph 3(a)(i) of this Instrument.

4. SPECIFY for the purposes of 1222(5)(a) of Schedule 1 to the Regulations, the following class of persons, Class 4 Family Members of Student Guardians, to which subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies to an applicant who is:
 - a. a member of the family unit and is seeking to satisfy the secondary criteria for a Subclass 590 visa; and
 - b. making a combined application with the applicant seeking to satisfy the primary criteria.

This Instrument Class of Persons 2016/015, IMMI 16/015 commences immediately after the commencement of Schedule 4 of the *Migration Legislation Amendment (2016 Measures No.1) Regulation 2016*.

Dated: 29 April 2016

Peter Dutton

THE HON PETER DUTTON MP
Minister for Immigration and Border Protection

Definitions:

Agreed starting day, for a registered course, means:

- (a) the day on which a course was scheduled to start; or
- (b) a later day agreed between the education provider and a student.

Provider default in relation to a registered course, means the occurrence of 1 of the following events because a sanction has been imposed on the education provider under Division 1 or 2 of Part 6 of the *Education Services for Overseas Students Act 2000*:

- (a) the course does not start on the agreed starting day;
- (b) the course ceases to be provided at any time after it starts, but before it is completed;
- (c) the course not being provided in full to a student.

Provider default day, in relation to a registered course for which provider default has occurred, means:

- (a) if the default occurred because of the event mentioned in paragraph (a) of the definition of provider default, the agreed starting day; or
- (b) if the default occurred because of the event mentioned in paragraph (b) or (c) of the definition of provider default, the day on which the course ceased to be provided.