



## **Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 10 November 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Peter Dutton  
Minister for Immigration and Border Protection

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## 1 Name

This is the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016*.

## 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	19 November 2016.	19 November 2016

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

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

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Frequent traveller stream

### *Migration Regulations 1994*

#### **1 Subregulation 2.07(1) (note)**

Repeal the note, substitute:

Note: An item of Schedule 1 may provide for matters to be specified by the Minister in a legislative instrument made under subregulation (5).

#### **2 Subregulation 2.07(5)**

Omit “in Schedule 1 prescribes any of the following requirements”, substitute “of Schedule 1 prescribes criteria or requirements”.

#### **3 Subregulation 2.07(5)**

Omit “the requirement”, substitute “any of the following matters for the purposes of such a criterion or requirement”.

#### **4 After paragraph 2.07(5)(c)**

Insert:

; (d) any other matter.

#### **5 Subregulation 2.07(6)**

Omit “requirements”, substitute “matters”.

#### **6 Paragraph 1236(2)(a) of Schedule 1**

Before “first instalment”, insert “in relation to an application for a Subclass 600 (Visitor) visa that is not in the Frequent Traveller stream—”.

#### **7 After paragraph 1236(2)(a) of Schedule 1**

Insert:

(aa) in relation to an application for a Subclass 600 (Visitor) visa in the Frequent Traveller stream—first instalment (payable at the time the application is made): the base application charge is \$1,000; and

#### **8 After subitem 1236(6) of Schedule 1**

Insert:

*Frequent Traveller stream—additional requirements*

(6A) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Frequent Traveller stream, the requirements in the table must be met.

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#### **Requirements**

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<b>Item</b>	<b>Requirements</b>
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1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)
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**Requirements**


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<b>Item</b>	<b>Requirements</b>
2	The applicant must be: (a) outside Australia; and (b) if a place is specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)—in the specified place
3	The applicant must hold a valid passport of a kind specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

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*Subclasses***9 Division 600.2 of Schedule 2 (note)**

After:

If an applicant applies for a Subclass 600 visa in the Approved Destination Status stream, the criteria in Subdivisions 600.21 and 600.25 are the primary criteria.

insert:

If an applicant applies for a Subclass 600 visa in the Frequent Traveller stream, the criteria in Subdivisions 600.21 and 600.26 are the primary criteria.

**10 At the end of Division 600.2 of Schedule 2**

Add:

**600.26—Criteria for Frequent Traveller stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Frequent Traveller stream.

**600.261**

The applicant intends to visit Australia:

- (a) as a tourist; or
- (b) to engage in a business visitor activity.

**600.262**

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

**11 Clause 600.512 of Schedule 2**

Before “If the visa”, insert “(1)”.

**12 At the end of clause 600.512 of Schedule 2**

Add:

- (2) Despite subclause (1), if the applicant satisfied the primary criteria for the grant of a Subclass 600 visa in the Frequent Traveller stream, temporary visa permitting the holder:

- (a) to travel to and enter Australia on multiple occasions until a date specified by the Minister (which must not be more than 10 years after the date of grant of the visa); and
- (b) to remain in Australia, after each entry, for 3 months.

**13 At the end of Division 600.6 of Schedule 2**

Add:

**600.615**

If the visa is a Subclass 600 visa in the Frequent Traveller stream, conditions 8115, 8201, 8503, 8516, 8527, 8531, 8550, 8572 and 8573 must be imposed.

**14 At the end of Schedule 8**

Add:

- 8572 If requested in writing by the Minister to do so, the holder must undergo a medical assessment carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
  - (b) a medical practitioner approved by the Minister;
  - (c) a medical practitioner employed by an organisation approved by the Minister.
- 8573 The holder must not stay in Australia for more than 12 months in any period of 24 months.



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## **Schedule 2—Cessation of bridging visas**

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

#### **1 Clause 010.511 of Schedule 2**

Before “In the case”, insert “(1)”.

#### **2 Subparagraph 010.511(b)(ii) of Schedule 2**

Omit “28 days after the holder is notified of that refusal”, substitute “35 days after the Minister makes the decision”.

#### **3 Subparagraph 010.511(b)(iii) of Schedule 2**

Repeal the subparagraph, substitute:

- (ia) if the substantive visa application is refused and the Tribunal decides that the holder’s application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (iii) if the substantive visa application is refused and the Tribunal makes a decision on the holder’s application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or

#### **4 Subparagraph 010.511(b)(v) of Schedule 2**

Omit “28 days”, substitute “35 days”.

#### **5 Subparagraphs 010.511(b)(vii) and (viii) of Schedule 2**

Repeal the subparagraphs, substitute:

- (vii) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or
- (viii) if the Tribunal remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration.

#### **6 At the end of clause 010.511 of Schedule 2**

Add:

- (2) For the purposes of subparagraphs (1)(b)(ii), (ia), (iii) and (vii), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  - (b) irrespective of the validity of the decision.

#### **7 Paragraph 010.513(c) of Schedule 2**

Omit “paragraph 010.511(b)”, substitute “paragraph 010.511(1)(b)”.

#### **8 Clause 020.511 of Schedule 2**

Before “In the case”, insert “(1)”.

**9 Subparagraph 020.511(b)(ii) of Schedule 2**

Omit “28 days after the holder is notified of that refusal”, substitute “35 days after the Minister makes the decision”.

**10 Subparagraph 020.511(b)(iii) of Schedule 2**

Repeal the subparagraph, substitute:

- (ia) if the substantive visa application is refused and the Tribunal decides that the holder’s application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (iii) if the substantive visa application is refused and the Tribunal makes a decision on the holder’s application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or

**11 Subparagraph 020.511(b)(iv) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**12 Subparagraphs 020.511(b)(vii) and (viii) of Schedule 2**

Repeal the subparagraphs, substitute:

- (vii) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or
- (viii) if the Tribunal remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration; and

**13 At the end of clause 020.511 of Schedule 2**

Add:

- (2) For the purposes of subparagraphs (1)(b)(ii), (ia), (iii) and (vii), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  - (b) irrespective of the validity of the decision.

**14 Paragraph 020.512(ba) of Schedule 2**

Omit “paragraph 020.511(b)”, substitute “paragraph 020.511(1)(b)”.

**15 Clause 030.511 of Schedule 2**

Before “In the case”, insert “(1)”.

**16 Subparagraph 030.511(b)(ii) of Schedule 2**

Omit “28 days after the holder is notified of that refusal”, substitute “35 days after the Minister makes the decision”.

**17 Subparagraph 030.511(b)(iii) of Schedule 2**

Repeal the subparagraph, substitute:

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- (ia) if the substantive visa application is refused and the Tribunal decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
  - (iii) if the substantive visa application is refused and the Tribunal makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or

**18 Subparagraph 030.511(b)(v) of Schedule 2**

Omit "28 days", substitute "35 days".

**19 Subparagraphs 030.511(b)(vi) and (vii) of Schedule 2**

Repeal the subparagraphs, substitute:

- (vi) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or
- (vii) if the Tribunal remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration; or

**20 At the end of clause 030.511 of Schedule 2**

- (2) For the purposes of subparagraphs (1)(b)(ii), (ia), (iii) and (vi), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  - (b) irrespective of the validity of the decision.

**21 Paragraph 030.512(c) of Schedule 2**

Omit "paragraph 030.511(b)", substitute "paragraph 030.511(1)(b)".

**22 Clause 050.511 of Schedule 2**

Before "In the case", insert "(1)".

**23 Subparagraph 050.511(b)(ii) of Schedule 2**

Omit "28 days after the holder is notified of that refusal", substitute "35 days after the Minister makes the decision".

**24 Subparagraphs 050.511(b)(iii) and (iiia) of Schedule 2**

Repeal the subparagraphs, substitute:

- (ia) if the substantive visa application is refused and the Tribunal decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (iii) if the substantive visa application is refused and the Tribunal makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or

- (iiia) if the substantive visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act on referral of that refusal under section 473CA of the Act (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or

**25 Subparagraph 050.511(b)(iv) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**26 Subparagraphs 050.511(b)(vi) and (vii) of Schedule 2**

Repeal the subparagraphs, substitute:

- (vi) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or
- (vii) if the Tribunal or the Immigration Assessment Authority remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration.

**27 At the end of clause 050.511 of Schedule 2**

Add:

- (2) For the purposes of subparagraphs (1)(b)(ii), (iia), (iii), (iiia) and (vi), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  - (b) irrespective of the validity of the decision.

**28 Clause 050.511C of Schedule 2**

Before “In the case”, insert “(1)”.

**29 Paragraph 050.511C(b) of Schedule 2**

Omit “28 days after”.

**30 Subparagraph 050.511C(b)(i) of Schedule 2**

Before “the day”, insert “28 days after”.

**31 Subparagraph 050.511C(b)(ii) of Schedule 2**

Omit “the day the non-citizen is notified of the decision of the Minister or the Tribunal”, substitute “35 days after the day the Minister or Tribunal makes a decision on the reconsideration”.

**32 Subparagraphs 050.511C(b)(iii) and (iv) of Schedule 2**

Before “the day”, insert “28 days after”.

**33 At the end of clause 050.511C of Schedule 2**

Add:

- (2) For the purposes of subparagraph (1)(b)(ii), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and

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(b) irrespective of the validity of the decision.

**34 Clause 050.511D of Schedule 2**

Before “In the case”, insert “(1)”.

**35 Paragraph 050.511D(b) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**36 Subparagraphs 050.511D(b)(i) and (ii) of Schedule 2**

Repeal the subparagraphs, substitute:

- (i) if the Tribunal decides that the holder’s application for merits review was not made in accordance with the law governing the making of applications to the Tribunal—the day the Tribunal makes the decision;
- (ia) if the Tribunal makes a decision on the holder’s application for merits review (other than a decision to remit the application to the Minister for reconsideration)—the day the Tribunal makes the decision;
- (ii) if the Tribunal remits the application to the Minister for reconsideration—the day the Minister makes a decision on the reconsideration;

**37 At the end of clause 050.511D of Schedule 2**

Add:

- (2) The 35 day period worked out by reference to subparagraphs (1)(b)(i), (ia) and (ii) begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  - (b) irrespective of the validity of the decision.

**38 Paragraph 050.512(c) of Schedule 2**

Omit “paragraph 050.511(b), clause 050.513 or clause 050.513B”, substitute “paragraph 050.511(1)(b) or subclause 050.513(1) or 050.513B(1)”.

**39 Clause 050.513 of Schedule 2**

Before “In the case”, insert “(1)”.

**40 Paragraph 050.513(a) of Schedule 2**

Repeal the paragraph, substitute:

- (a) if the Tribunal decides that the holder’s application for merits review was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (aa) if the Tribunal makes a decision on the holder’s application for merits review—35 days after the Tribunal makes the decision; or

**41 Paragraph 050.513(c) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**42 At the end of clause 050.513 of Schedule 2**

Add:

- (2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
- (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
  - (b) irrespective of the validity of the decision.

**43 Subparagraph 050.513A(b)(i) of Schedule 2**

Repeal the subparagraph, substitute:

- (i) 14 working days after the day the decision is made on the revocation application; or

**44 Subparagraph 050.513A(b)(iii) of Schedule 2**

Omit “7”, substitute “14”.

**45 Paragraph 050.513A(c) of Schedule 2**

Omit “clause 050.513B”, substitute “subclause 050.513B(1)”.

**46 Clause 050.513B of Schedule 2**

Before “In the case”, insert “(1)”.

**47 Paragraph 050.513B(a) of Schedule 2**

Repeal the paragraph, substitute:

- (a) if the Tribunal decides that the holder’s application for merits review was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (aa) if the Tribunal makes a decision on the holder’s application for merits review—35 days after the Tribunal makes the decision; or

**48 Paragraph 050.513B(c) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**49 At the end of clause 050.513B of Schedule 2**

Add:

- (2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
- (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
  - (b) irrespective of the validity of the decision.

**50 Clause 050.514 of Schedule 2**

Before “In the case”, insert “(1)”.

**51 Paragraph 050.514(a) of Schedule 2**

Repeal the paragraph, substitute:

- (a) if the Tribunal decides that the application for merits review made by the other person whose visa was cancelled was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (aa) if the Tribunal makes a decision on the application for merits review made by the other person whose visa was cancelled—35 days after the Tribunal makes the decision; or

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**52 Paragraph 050.514(c) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**53 At the end of clause 050.514 of Schedule 2**

Add:

- (2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
  - (b) irrespective of the validity of the decision.

**54 Subparagraph 050.514AA(b)(i) of Schedule 2**

Repeal the subparagraph, substitute:

- (i) 14 working days after the day the decision is made on the revocation application; or

**55 Subparagraph 050.514AA(b)(iii) of Schedule 2**

Omit “7”, substitute “14”.

**56 Paragraph 050.514AA(c) of Schedule 2**

Omit “clause 050.514AB”, substitute “subclause 050.514AB(1)”.

**57 Clause 050.514AB of Schedule 2**

Before “In the case”, insert “(1)”.

**58 Paragraph 050.514AB(a) of Schedule 2**

Repeal the paragraph, substitute:

- (a) if the Tribunal decides that the application for merits review made by the person whose visa was cancelled under section 137J of the Act was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (aa) if the Tribunal makes a decision on the application for merits review made by the person whose visa was cancelled under section 137J of the Act—35 days after the Tribunal makes the decision; or

**59 Paragraph 050.514AB(c) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**60 At the end of clause 050.514AB of Schedule 2**

Add:

- (2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
  - (b) irrespective of the validity of the decision.

**61 Clause 051.511 of Schedule 2**

Before “In the case”, insert “(1)”.

**62 Subparagraph 051.511(a)(ii) of Schedule 2**

Omit “28 days after the holder is notified of that refusal”, substitute “35 days after the Minister makes the decision”.

**63 Paragraphs 051.511(b) and (ba) of Schedule 2**

Repeal the paragraphs, substitute:

- (b) if the protection visa application is refused and the Tribunal decides that the holder’s application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (ba) if the protection visa application is refused and the Tribunal makes a decision on the holder’s application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or
- (bb) if the protection visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act on referral of that refusal under section 473CA of the Act (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or

**64 Paragraph 051.511(d) of Schedule 2**

Omit “28 days”, substitute “35 days”.

**65 Paragraph 051.511(e) of Schedule 2**

Repeal the paragraph, substitute:

- (e) if the Minister decides that the protection visa application is invalid—35 days after the Minister makes the decision; or

**66 Paragraph 051.511(f) of Schedule 2**

Omit “permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this clause”, substitute “the end of the period worked out in accordance with whichever paragraph of this subclause applies in relation to the reconsideration”.

**67 At the end of clause 051.511 of Schedule 2**

Add:

- (2) For the purposes of subparagraph (1)(a)(ii) and paragraphs (1)(b), (ba), (bb) and (e), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph or subparagraph; and
  - (b) irrespective of the validity of the decision.

**68 Paragraph 051.512(d) of Schedule 2**

Omit “clause 051.511”, substitute “subclause 051.511(1)”.

**69 Subparagraph 051.513(1)(a)(ii) of Schedule 2**

Omit “28 days after the holder is notified of that refusal”, substitute “35 days after the Minister makes the decision”.



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**70 Paragraphs 051.513(1)(b) and (ba) of Schedule 2**

Repeal the paragraphs, substitute:

- (b) if the protection visa application is refused and the Tribunal decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the Tribunal—35 days after the Tribunal makes the decision; or
- (ba) if the protection visa application is refused and the Tribunal makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Tribunal makes the decision; or
- (bb) if the protection visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act on referral of that refusal under section 473CA of the Act (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or

**71 Paragraph 051.513(1)(d) of Schedule 2**

Omit "28 days", substitute "35 days".

**72 After subclause 051.513(1) of Schedule 2**

Insert:

- (1A) For the purposes of subparagraph (1)(a)(ii) and paragraphs (1)(b), (ba) and (bb), the 35 day period begins to run:
  - (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph or subparagraph; and
  - (b) irrespective of the validity of the decision.

## **Schedule 3—Application and transitional provisions**

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

#### **1 In the appropriate position in Schedule 13**

Insert:

### **Part 58—Amendments made by the Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016**

#### **5801 Operation of Schedule 1**

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016* apply in relation to an application for a visa made on or after 19 November 2016.
- (2) To avoid doubt, an instrument in force under subregulation 2.07(5) immediately before 19 November 2016 continues in force on and after that day regardless of the amendments of that subregulation made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016*.

#### **5802 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016* apply in relation to a bridging visa granted on or after 19 November 2016.