



Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017

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 regulations.

Dated 13 April 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Peter Dutton
Minister for Immigration and Border Protection

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1 Name

This instrument is the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	14 April 2017
2. Schedules 1, 2 and 3	18 April 2017.	18 April 2017
3. Schedule 4, Part 1	1 October 2017.	1 October 2017
4. Schedule 4, Part 2	1 January 2018.	1 January 2018
5. Schedules 5 and 6	18 April 2017.	18 April 2017
6. Schedule 7, item 1	18 April 2017.	18 April 2017
7. Schedule 7, items 2 and 3	1 October 2017.	1 October 2017
8. Schedule 7, item 4	18 April 2017.	18 April 2017

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Former holders of Norfolk Island entry permits

Migration Regulations 1994

1 After paragraph 1216(3B)(c) of Schedule 1

Insert:

- (ca) Application covered by paragraph (3A)(c) may be made at the same time and place as, and combined with, the application made by the other applicant referred to in that paragraph.

2 Division 159.3 of Schedule 2 (after the heading)

Insert:

- Note: These criteria must be satisfied by applicants whose application is covered by paragraph 1216(3A)(c) of Schedule 1.

Schedule 2—Amendments relating to protection visas

Migration Regulations 1994

1 After regulation 2.08A

Insert:

2.08AAA Addition of certain applicants to certain applications for temporary protection visas and safe haven enterprise visas

- (1) If:
- (a) a person (the *original applicant*) applies for a visa of either of the following classes:
 - (i) a Temporary Protection (Class XD) visa;
 - (ii) a Safe Haven Enterprise (Class XE) visa; and
 - (b) the original applicant is a fast track applicant; and
 - (c) after the application is made, but before it is decided, the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have a member of the same family unit as the original applicant (the *additional applicant*) added to the application; and
 - (d) the request includes a statement that the original applicant claims that the additional applicant is a member of the same family unit as the original applicant; and
 - (e) the additional applicant is, or if added to the application would be, a fast track applicant; and
 - (f) the additional applicant charge (if any) has been paid in relation to the additional applicant; and
 - (g) at the time when:
 - (i) the Minister has received the request; and
 - (ii) the additional applicant charge (if any) has been paid;
 the additional applicant satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class;
- then:
- (h) the additional applicant is taken to have applied for a visa of the same class; and
 - (i) the application of the additional applicant:
 - (i) is taken to have been made on the later of the day the Minister receives the request and the day the additional applicant charge (if any) is paid; and
 - (ii) is taken to be combined with the application of the original applicant; and
 - (iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.
- (2) Despite any provision in Schedule 2, the additional applicant:
- (a) must be, at the time the application is taken to be made under subparagraph (1)(i)(i), a person who satisfies the applicable primary criteria to be satisfied at the time of application; and

- (b) must satisfy the applicable primary criteria to be satisfied at the time of decision.

2 Paragraph 2.12C(2)(d)

Omit “or 2.08AA”, substitute “, 2.08AA or 2.08AAA”.

3 After subitem 1401(3) of Schedule 1

Insert:

- (3A) If an application for a Protection (Class XA) visa made by a person would (apart from this subitem) be invalid only because subparagraph (3)(d)(iv) is not satisfied, the application is taken to be valid if:
- (a) the person was born in the migration zone; and
 - (b) a parent of the person was an unlawful non-citizen at the time of the person’s birth; and
 - (c) the parent was a lawful non-citizen at the last time before the person’s birth when the parent entered the migration zone.

4 Paragraph 1403(3)(d) of Schedule 1

After “valid only if the person”, insert “is unable to make a valid application for a Protection (Class XA) visa and”.

5 Paragraph 1404(3)(d) of Schedule 1

After “valid only if the person”, insert “is unable to make a valid application for a Protection (Class XA) visa and”.

6 Subparagraph 785.511(a)(ii) of Schedule 2

Before “the day”, insert “35 days after”.

7 Subparagraph 790.511(a)(ii) of Schedule 2

Before “the day”, insert “35 days after”.

Schedule 3—Technical amendments to remove redundant provisions

Migration Regulations 1994

1 Regulation 1.03 (definition of ACCESS test)

Repeal the definition.

2 Subregulation 2.05(4AA)

Omit “and subject to subregulation (4A),”.

3 Paragraphs 5.17(e) and (h)

Repeal the paragraphs.

4 Subparagraph 5.17(j)(i)

Repeal the subparagraph.

5 Subparagraph 5.17(j)(iii)

Omit “(e) or”.

6 Subclause 010.611(3A) of Schedule 2

Repeal the subclause, substitute:

- (3A) In the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211(2) or (3) on the basis of a valid application for a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1: condition 8501.

7 Subclause 020.611(3) of Schedule 2

Repeal the subclause, substitute:

- (3) In the case of a visa granted to a person who meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1: condition 8501.

8 Clause 300.411 of Schedule 2

Repeal the clause.

9 Clause 300.412 of Schedule 2

Omit “In any other case, the”, substitute “The”.

10 Clause 309.411 of Schedule 2

Repeal the clause.

11 Clause 309.412 of Schedule 2

Omit “In any other case, the”, substitute “The”.

Schedule 4—Reform of continuing professional development requirements for registered migration agents

Part 1—Amendments commencing 1 October 2017

Migration Agents Regulations 1998

1 Subregulation 3(1)

Insert:

CPD activity means an activity that:

- (a) is specified in an instrument made under regulation 3AA; and
- (b) relates to a topic specified in an instrument made under regulation 3AA; and
- (c) is conducted by a CPD provider in accordance with any conditions specified for the activity in an instrument made under regulation 3AA.

CPD provider means a person for whom an approval under Part 3C as a CPD provider is in effect.

CPD provider standards has the meaning given by subregulation 9Q(2).

expiry day for an approval has the meaning given by subregulation 9R(3).

2 At the end of Part 1

Add:

3AA Instrument specifying matters relating to CPD activities

The Minister may, by legislative instrument, specify any or all of the following matters:

- (a) activities;
- (b) topics to which activities may relate;
- (c) conditions for the conduct of activities;
- (d) the points that activities are worth;
- (e) activities that are mandatory and a minimum number of points for such activities.

Note: These matters are specified for the purposes of the definition of **CPD activity** in subregulation 3(1).

3 After Part 3B

Insert:

Part 3C—Approval of CPD providers

9M Application for approval as CPD provider

- (1) A person may apply to the Minister for approval as a CPD provider.
- (2) The application must be:
 - (a) in the form approved in writing by the Minister; and
 - (b) accompanied by the fee specified by the Minister in an instrument in writing for the purposes of this paragraph.
- (3) A fee specified in an instrument made under paragraph (2)(b) may be nil.

9N Approval of CPD providers

- (1) The Minister may, in writing, approve a person who has applied in accordance with regulation 9M as a CPD provider, if the applicant satisfies the Minister that the applicant meets the requirements for approval set out in subregulation 9P(1).
- (2) However, the Minister must not approve the applicant as a CPD provider if the Minister has any reason to doubt that the fit and proper person requirements set out in subregulation 9P(2) are met.
- (3) If the Minister decides not to approve the applicant as a CPD provider, the Minister must notify the applicant as soon as practicable, in writing, of the decision and the reasons for it.

9P Requirements to be approved as CPD provider

- (1) For the purposes of subregulation 9N(1), the requirements for approval are the following:
 - (a) either:
 - (i) the applicant has experience in providing relevant types of adult learning programs or activities, or has or intends to obtain the services of a person who has such experience; or
 - (ii) the applicant holds a relevant qualification in training and assessment at the Certificate IV level or higher, or has or intends to obtain the services of a person who holds such a qualification;
 - (b) the applicant has suitable policies and administrative arrangements in relation to:
 - (i) learning and assessment; and
 - (ii) evaluation and continuous improvement; and
 - (iii) records management, reporting and privacy; and
 - (iv) handling complaints; and
 - (v) handling cancellations and refunds; and
 - (vi) support and monitoring of distance learning participants;
 - (c) the applicant has experience in providing, or understands and intends to provide, suitable training infrastructure, materials and resources for CPD activities;
 - (d) the applicant is able to deliver training, in a professional level of English, which is of significant intellectual and practical content and relevant to

migration law and procedure and to the professional development needs of registered migration agents, or has or intends to obtain the services of a person who is able to do so;

- (e) the applicant is suitably qualified, whether formally or by experience, to conduct CPD activities, or has or intends to obtain the services of a person who is suitably qualified.
- (2) For the purposes of subregulation 9N(2), the fit and proper person requirements are that each of the following persons is a fit and proper person and a person of good character, good reputation and integrity:
- (a) the applicant;
 - (b) any person employed by, or providing services to or on behalf of, the applicant in relation to the conduct of CPD activities or activities that would be CPD activities if the applicant were approved as a CPD provider.

9Q Conditions of approval as CPD provider

- (1) A person's approval as a CPD provider is subject to the person's compliance with:
- (a) any conditions specified by the Minister in the approval; and
 - (b) the standards specified for CPD providers in the CPD provider standards.
- (2) The Minister may, by legislative instrument (the *CPD provider standards*), specify standards to be complied with by CPD providers.

Note: Standards are specified for the purposes of paragraph (1)(b) of this regulation.

9R Period of approval as CPD provider

- (1) Unless subregulation 9S(5) applies, a person's approval as a CPD provider takes effect:
- (a) on the day the Minister approves the person; or
 - (b) if the Minister approves the person while a previous approval is in effect and before the end of the expiry day for that approval—at the end of the expiry day for the previous approval.

Note: If a person applies to be approved again while a previous approval is in effect, and the Minister approves the person after the expiry day for the previous approval, subregulation 9S(5) deals with when the new approval takes effect.

- (2) Unless continued by subregulation 9S(3) or cancelled under regulation 9T, a person's approval as a CPD provider continues in effect until the end of its expiry day.

- (3) The *expiry day* for an approval is:
- (a) the second anniversary of the day the approval took effect; or
 - (b) if subregulation 9S(5) applies (Minister approves the person while a previous approval is in effect and after the expiry day for that approval)—the second anniversary of the expiry day for the previous approval.

Example 1: The Minister approves a person for the first time on 31 October 2018. The approval takes effect on that day and continues in effect until its expiry day, which is 31 October 2020 (the second anniversary of the day it took effect).

Example 2: The expiry day for a person's approval is 31 October 2020. Before that day, the person applies to be approved again and the Minister approves the person on 10 October 2020.

The previous approval continues in effect until the end of 31 October 2020. The new approval takes effect at the end of 31 October 2020 and continues in effect until its expiry day, which is 31 October 2022 (the second anniversary of the day it took effect).

9S Automatic continuation of approval as CPD provider until application to be approved again is dealt with

When person's approval is automatically continued

- (1) Subregulation (3) applies to continue a person's approval as a CPD provider beyond its expiry day if:
 - (a) before the end of the expiry day, the person made an application to be approved again as a CPD provider in accordance with regulation 9M; and
 - (b) the Minister had not decided the application by the end of the expiry day.

Exception—cancellation

- (2) However, subregulation (3) does not apply to continue a person's approval as a CPD provider if, before the end of the expiry day, the Minister cancelled the approval.

Period of continuation of approval

- (3) The person's approval as a CPD provider is taken to continue after the expiry day until:
 - (a) the end of the day the Minister decides the application; or
 - (b) if the Minister decides to cancel the person's approval—the day the cancellation takes effect; or
 - (c) the end of the period of 21 months beginning on the day after the expiry day.

Approval if no decision within a certain period

- (4) If, before the end of the period of 21 months beginning on the day after the expiry day, the Minister has neither decided the application nor cancelled the approval, then the Minister is taken to have approved the person as a CPD provider at the end of the last day of that period. The approval is taken to be subject to any conditions specified by the Minister in the previous approval in accordance with paragraph 9Q(1)(a).

When approval is in effect

- (5) If the Minister decides to approve, or is taken to have approved, the person as a CPD provider, the approval:
 - (a) takes effect at the end of the day the Minister approves or is taken to have approved the person; and
 - (b) unless continued by subregulation (3) or cancelled under regulation 9T, continues in effect until the end of its expiry day (see paragraph 9R(3)(b)).

Example: The expiry day for a person's approval is 31 October 2020. On 20 October the person applies to be approved again. The Minister has not decided the person's application by the end of 31 October.

The person's approval continues automatically past 31 October.

Schedule 4 Reform of continuing professional development requirements for registered migration agents

Part 1 Amendments commencing 1 October 2017

The Minister approves the person on 15 November. The new approval takes effect at the end of 15 November 2020 and continues in effect from that time until its expiry day on 31 October 2022 (the second anniversary of the expiry day for the previous approval—see paragraph 9R(3)(b)).

9T Cancellation of approval as CPD provider

- (1) The Minister may, by written notice given to a person, cancel the person's approval as a CPD provider if:
 - (a) the Minister is satisfied that the person has failed to comply with a condition referred to in paragraph 9Q(1)(a) or a standard in the CPD provider standards; or
 - (b) the Minister is not satisfied that the person meets the requirements for approval in subregulation 9P(1), or that the person has done as the person intended in relation to any such requirement met on the basis of an intention; or
 - (c) the Minister has reason to doubt that the fit and proper person requirements set out in subregulation 9P(2) are met.
- (2) The Minister must, by written notice given to a person, cancel the person's approval as a CPD provider if the person requests the Minister in writing to do so.
- (3) Cancellation takes effect on the day notice of the cancellation is given to the person, or on a later day specified in the notice.

9U Delegation

- (1) The Minister may, in writing, delegate to an APS employee in the Department any or all of the Minister's functions and powers under this Part, other than a power to make, vary or revoke a legislative instrument.
- (2) In performing functions and exercising powers under a delegation, the delegate must comply with any directions of the Minister.

Part 2—Amendments commencing 1 January 2018

Migration Agents Regulations 1998

4 Subregulation 3(1)

Repeal the following definitions:

- (a) definition of *approved activity*;
- (b) definition of *approved provider*.

5 Regulation 3AA (at the end of the note)

Add “and for subregulation 6(1)”.

6 Regulation 6

Repeal the regulation, substitute:

6 Continuing professional development

- (1) For the purposes of section 290A of the Act, the requirements for continuing professional development of a registered migration agent who makes an application for repeat registration are that, within the period applicable under subregulation (2):
 - (a) the applicant completes CPD activities worth at least 10 points; and
 - (b) the completed activities include activities specified in an instrument made under regulation 3AA as mandatory for the applicant and worth at least the minimum number of points specified in the instrument for such activities.
- (2) For the purposes of subregulation (1), the period is:
 - (a) the 12 months ending on the day the application was made; or
 - (b) if the Authority is satisfied that the applicant did not meet a requirement in subregulation (1) because of exceptional circumstances beyond the applicant’s control—the 15 months ending on the day that is 3 months after the day the application was made.
- (3) Points counted for the purposes of deciding an application cannot be counted again for the purposes of deciding a later application.
- (4) In order to satisfy the Authority that the applicant has met the requirements in subregulation (1), the applicant must:
 - (a) include with the application a written notice that:
 - (i) states that the applicant has met the requirements in subregulation (1); and
 - (ii) includes a list of CPD activities completed by the applicant within the applicable period and the points the activities are worth; and
 - (b) keep written records of activities completed by the applicant (including any confirmation of completion given by a CPD provider), sufficient to enable the Authority to assess whether the activities are properly regarded as CPD activities; and
 - (c) show the Authority the records on request.

Schedule 4 Reform of continuing professional development requirements for registered migration agents

Part 2 Amendments commencing 1 January 2018

- (5) Records kept for the purposes of paragraph (4)(b) must be:
- (a) in English; and
 - (b) kept for at least 2 years after the end of the period of registration in which the activity was completed.

7 Parts 3A and 3B

Repeal the Parts.

8 Schedule 1

Repeal the Schedule.

9 Clause 2.5 of Schedule 2 (note 2)

Omit “Schedule 1”, substitute “regulation 6”.

Schedule 5—Immigration assistance and immigration representations by registered migration agents

Migration Agents Regulations 1998

1 Regulation 3A (definition of *specified application*)

Repeal the definition.

2 Regulations 3C and 3D

Repeal the regulations, substitute:

3BA Specification of kinds of visas for this Division

The Minister may, by legislative instrument, specify kinds of visas for the purposes of this Division.

3C Assistance given to migrating employees

For the purposes of subsection 276(4) of the Act, a person does not give immigration assistance if the person gives assistance referred to in subsection 276(1) or (2) of the Act in these circumstances:

- (a) the person is:
 - (i) the employer or prospective employer of the person to whom the assistance is given; or
 - (ii) an employee of the employer or prospective employer of the person to whom the assistance is given who is acting on the employer's behalf; and
- (b) the person to whom the assistance is given is a migrating employee of the employer or prospective employer; and
- (c) the migrating employee has made or intends to make an application for a kind of visa specified in an instrument made under regulation 3BA; and
- (d) the assistance is given in relation to the application; and
- (e) the person giving the assistance is not a registered migration agent.

3D Representations made on behalf of migrating employees

For the purposes of subsection 282(5) of the Act, a person does not make immigration representations if the person makes representations of the kind referred to in subsection 282(4) of the Act in these circumstances:

- (a) the person is:
 - (i) the employer or prospective employer of the person on whose behalf the representations are made; or
 - (ii) an employee of the employer or prospective employer of the person on whose behalf the representations are made who is acting on the employer's behalf; and
- (b) the person on whose behalf the representations are made is a migrating employee of the employer or prospective employer; and
- (c) the migrating employee has made or intends to make an application for a kind of visa specified in an instrument made under regulation 3BA; and

- (d) the representations are made in relation to the application; and
- (e) the person making the representations is not a registered migration agent.

3 Regulations 3E, 3F and 3G

Repeal the regulations, substitute:

3E Definitions for Division 2.2

In this Division:

employee has the same meaning as in Division 2.1 (see regulation 3B).

professional development sponsor means an organisation that is sponsoring, or intends to sponsor, a person who is in a class of persons specified in an instrument made under regulation 3EA in relation to an application for a visa the person has made or intends to make.

3EA Specification of classes of persons for this Division

The Minister may, by legislative instrument, specify classes of persons for the purposes of this Division.

3F Assistance given to professional development applicants

For the purposes of subsection 276(4) of the Act, a person (the *adviser*) does not give immigration assistance if the adviser gives assistance referred to in subsection 276(1) or (2) of the Act to another person (the *applicant*) in these circumstances:

- (a) the adviser is:
 - (i) a professional development sponsor of the applicant; or
 - (ii) an employee of a professional development sponsor of the applicant who is acting on the sponsor's behalf; and
- (b) the applicant is in a class of persons specified in an instrument made under regulation 3EA; and
- (c) the applicant has made or intends to make an application for a visa in relation to which the professional development sponsor has sponsored, or intends to sponsor, the applicant; and
- (d) the assistance is given in relation to the application; and
- (e) the adviser is not a registered migration agent.

3G Representations made on behalf of professional development applicants

For the purposes of subsection 282(5) of the Act, a person (the *adviser*) does not make immigration representations if the adviser makes representations of the kind referred to in subsection 282(4) of the Act on behalf of another person (the *applicant*) in these circumstances:

- (a) the adviser is:
 - (i) a professional development sponsor of the applicant; or
 - (ii) an employee of a professional development sponsor of the applicant who is acting on the sponsor's behalf; and
- (b) the applicant is in a class of persons specified in an instrument made under regulation 3EA; and

- (c) the applicant has made or intends to make an application for a visa in relation to which the professional development sponsor has sponsored, or intends to sponsor, the applicant; and
- (d) the representations are made in relation to the application; and
- (e) the adviser is not a registered migration agent.

4 Schedule 2 (note to Schedule heading)

Repeal the note, substitute:

Note: See regulation 8.

5 Schedule 2 (preamble to Code of Conduct)

Omit all the words from and including “THIS CODE OF CONDUCT SHOULD” to and including “QVB NSW 1230”.

6 Paragraph 2.1A(c) of Schedule 2

Repeal the paragraph.

7 After clause 8.3 of Schedule 2

Insert:

- 8.3A A registered migration agent must ensure that, if an employee gives assistance in the circumstances mentioned in regulation 3C or 3F of the *Migration Agents Regulations 1998*, the assistance is given in accordance with the standards of conduct this Code requires of a registered migration agent.
- 8.3B A registered migration agent must ensure that, if an employee makes representations in the circumstances mentioned in regulation 3D or 3G of the *Migration Agents Regulations 1998*, the representations are made in accordance with the standards of conduct this Code requires of a registered migration agent.

Schedule 6—Identifying fees in repeat applications for migration agent registration

Migration Agents Regulations 1998

1 Regulation 3XA

Repeal the regulation, substitute:

3XA Application for repeat registration

- (1) An individual who applies for repeat registration must, if requested to do so by the Authority, give the Authority a statement in writing setting out the average fees charged by the individual, as a registered migration agent, during the period specified in the request.

Note: See subregulation 3(2) for the definition of *repeat registration*.

- (2) The request:
- (a) must be made in writing; and
 - (b) may be included in a form approved under regulation 11 for use in making applications for registration; and
 - (c) must not specify a period that begins more than 12 months before the individual's application for repeat registration.

Schedule 7—Application and transitional provisions

Migration Agents Regulations 1998

1 In the appropriate position in Part 5

Insert:

Division 4—Amendments made by the Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017

15 Definitions

In this Division:

amending Regulations means the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017*.

16 Operation of amendments of regulation 3XA

The amendments of regulation 3XA of these Regulations made by Schedule 6 to the amending Regulations apply in relation to applications for repeat registration made on or after 18 April 2017.

17 Operation of amendments of Divisions 2.1 and 2.2 of Part 2

The amendments of Divisions 2.1 and 2.2 of Part 2 of these Regulations made by Schedule 5 to the amending Regulations apply in relation to assistance given, and representations made, on or after 18 April 2017.

18 Operation of amendment of clause 2.1A of Code of Conduct

The amendment of clause 2.1A of Schedule 2 to these Regulations made by Schedule 5 to the amending Regulations applies in relation to accepting a person as a client on or after 18 April 2017.

19 Operation of clauses 8.3A and 8.3B of Code of Conduct

- (1) Clause 8.3A of Schedule 2 to these Regulations, as inserted by Schedule 5 to the amending Regulations, applies in relation to assistance given on or after 18 April 2017.
- (2) Clause 8.3B of Schedule 2 to these Regulations, as inserted by Schedule 5 to the amending Regulations, applies in relation to representations made on or after 18 April 2017.

2 Regulation 15

Insert:

approved activity means an approved activity within the meaning of these Regulations as in force immediately before 1 January 2018.

approved provider means an approved provider within the meaning of these Regulations as in force immediately before 1 January 2018.

3 At the end of Division 4 of Part 5

Add:

20 Transition from approved activities to CPD activities

- (1) A person who provides an approved activity must ensure that registered migration agents who commence the activity are able to complete it before 1 January 2018.
- (2) In working out on or after 1 January 2018 whether an applicant has met the requirements in subregulation 6(1) as amended by Part 2 of Schedule 4 to the amending Regulations, points for an approved activity completed by the applicant before 1 January 2018, and not counted for the purposes of deciding any previous application, may be counted.
- (3) A person who is approved as a CPD provider must not conduct CPD activities before 1 January 2018.
- (4) The amendments of regulation 6 made by Part 2 of Schedule 4 to the amending Regulations apply in relation to CPD activities conducted on or after 1 January 2018.

21 Transition from approved providers to CPD providers

To avoid doubt, a person (including a person who is or was an approved provider) is not a CPD provider for the purposes of these Regulations unless the person is approved as a CPD provider under Part 3C of these Regulations on or after 1 October 2017 and the approval is in effect.

22 Approval as CPD provider before 1 January 2018

Despite subregulation 9R(1), any approval of a person as a CPD provider before 1 January 2018 takes effect on 1 January 2018.

Migration Regulations 1994

4 In the appropriate position in Schedule 13

Insert:

Part 62—Amendments made by the Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017

6201 Operation of Schedule 1

- (1) The amendments of item 1216 of Schedule 1 to these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to the following:
 - (a) an application for a visa which, in accordance with subregulation (2), is taken to have been made before 18 April 2017;
 - (b) an application for a visa made on or after 18 April 2017.

-
- (2) If:
- (a) before 18 April 2017, an applicant (the *child*) made or purported to make an application for a visa on the basis that clause 159.311 of Schedule 2 is satisfied in relation to another applicant whose application was covered by paragraph 1216(3A)(a) or (b) of Schedule 1; and
 - (b) clause 159.311 of Schedule 2 would not be satisfied only because the child's application could not be combined with the application made by the other applicant as referred to in paragraph 1216(3B)(c) as in force at the time the child's application was made or purportedly made; and
 - (c) had the child's application been made on 18 April 2017, it could have been combined with the application made by the other applicant as referred to in paragraph 1216(3B)(ca) as inserted by Schedule 1 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017*;
- the child's application is taken to have been made at the same time and place as, and combined with, the application made by the other applicant.

6202 Operation of Schedule 2

- (1) The amendments of clauses 785.511 and 790.511 of Schedule 2 to these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to visas granted before, on or after 18 April 2017.
- (2) Other amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to the following:
 - (a) an application for a visa made before, but not finally determined by, 18 April 2017;
 - (b) an application for a visa made on or after 18 April 2017.