



## **Migration Amendment (New Skilled Regional Visas) Regulations 2019**

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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 regulations.

Dated 04 April 2019

Peter Cosgrove  
Governor-General

By His Excellency's Command

David Coleman  
Minister for Immigration, Citizenship and Multicultural Affairs

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## 1 Name

This instrument is the *Migration Amendment (New Skilled Regional Visas) Regulations 2019*.

## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	9 April 2019
2. Schedules 1 and 2	16 November 2019.	16 November 2019
3. Schedule 3	16 November 2022.	16 November 2022

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

### *Migration Regulations 1994*

#### **1 Regulation 1.03**

Insert:

*designated regional area* means a part of Australia specified in an instrument under regulation 1.15M.

#### **2 Regulation 1.03 (definition of *General Skilled Migration visa*)**

After “489,” insert “491,”.

#### **3 At the end of Division 1.2 of Part 1**

Add:

##### **1.15M Designated regional area**

The Minister may, by legislative instrument, specify a part of Australia to be a designated regional area.

#### **4 Paragraph 1.20(2)(a)**

After “(Class SP) visa,”, insert “a Skilled Work Regional (Provisional) (Class PS) visa”.

#### **5 Subregulation 1.20(3)**

Omit “or a Skilled—Regional Sponsored (Provisional) (Class SP) visa”, substitute “a Skilled—Regional Sponsored (Provisional) (Class SP) visa or a Skilled Work Regional (Provisional) (Class PS) visa”.

#### **6 Subregulation 2.06AAB(1) (after table item 14)**

Insert:

14A Subclass 491 (Skilled Work Regional (Provisional))

#### **7 Subparagraph 2.08B(1)(a)(xiii)**

Omit “and”, substitute “or”.

#### **8 At the end of paragraph 2.08B(1)(a)**

Add:

(xiv) a Skilled Work Regional (Provisional) (Class PS) visa; and

#### **9 Regulation 2.26AC (heading)**

Omit “and 489”, substitute “, 489 and 491”.

#### **10 At the end of subregulation 2.26AC(1)**

Add:

; or (d) a Skilled Work Regional (Provisional) (Class PS) visa.

**11 At the end of subregulation 2.26AC(2)**

Add:

; or (d) a Subclass 491 (Skilled Work Regional (Provisional)) visa.

**12 Subparagraphs 4.02(4)(l)(i) to (iii)**

After “person,” insert “body,”.

**13 Paragraph 4.02(4)(la)**

After “(Skilled—Regional (Provisional)) visa”, insert “or a Subclass 491 (Skilled Work Regional (Provisional)) visa”.

**14 Subparagraphs 4.02(4)(la)(ii), (o)(i) to (iii) and (p)(ii)**

After “person,” insert “body,”.

**15 At the end of subregulation 4.02(4AA)**

Add:

; or (g) a State or Territory government agency.

**16 After paragraph 5.35AB(1)(l)**

Insert:

(la) a Subclass 491 (Skilled Work Regional (Provisional)) visa;

**17 At the end of subitem 1214C(3) of Schedule 1**

Add:

(h) If:

- (i) the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  - (ii) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- the applicant must have held that visa for at least 3 years.

**18 Before paragraph 1230(3)(a) of Schedule 1**

Insert:

- (aa) An application by a person seeking to satisfy the primary criteria in the First Provisional Visa stream must be made before 16 November 2019.

**19 At the end of Part 2 of Schedule 1**

Add:

**1241 Skilled Work Regional (Provisional) (Class PS)**

- (1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).
- (2) Visa application charge:
  - (a) first instalment (payable at the time the application is made):

**Schedule 1** Amendments relating to the Skilled Work Regional (Provisional) visa

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<b>First instalment</b>		
<b>Item</b>	<b>Component</b>	<b>Amount</b>
1	Base application charge	\$3,755
2	Additional applicant charge for an applicant who is at least 18	\$1,875
3	Additional applicant charge for an applicant who is less than 18	\$940

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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<b>Second instalment</b>		
<b>Item</b>	<b>Applicant</b>	<b>Amount</b>
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English	\$4,890
2	Any other applicant	Nil

(3) Other:

- (a) 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).
- (b) An applicant may be in or outside Australia, but not in immigration clearance.
- (c) An applicant in Australia must hold:
  - (i) a substantive visa; or
  - (ii) a Subclass 010 (Bridging A) visa; or
  - (iii) a Subclass 020 (Bridging B) visa; or
  - (iv) a Subclass 030 (Bridging C) visa.
- (d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled Work Regional (Provisional) (Class PS) visa may be made at the same time as, and combined with, an application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 491 (Skilled Work Regional (Provisional)) visa must meet the requirements in the table.

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<b>Requirements for applicants seeking to satisfy primary criteria</b>	
<b>Item</b>	<b>Requirements</b>
1	The applicant must have been invited, in writing, by the Minister to apply for the visa
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must not have turned 45 at the time of the invitation to apply for the visa
4	The applicant must nominate a skilled occupation:

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**Requirements for applicants seeking to satisfy primary criteria**

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**Item Requirements**

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- (a) that is specified in an instrument under subitem (5) at the time of the invitation; and
  - (b) that is specified in the invitation as the skilled occupation which the applicant may nominate; and
  - (c) for which the applicant declares in the application that the applicant's skills have been assessed as suitable by the relevant assessing authority for the skilled occupation and that the assessment is not for a Subclass 485 (Temporary Graduate) visa
- 

- 5 The applicant:
- (a) is nominated by a State or Territory government agency and that nomination has not been withdrawn; or
  - (b) declares in the application that the applicant is sponsored by a person who:
    - (i) has turned 18; and
    - (ii) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen
- 

- 6 If the applicant declares in the application that the applicant (the *primary applicant*) is sponsored by a person (the *sponsor*) mentioned in paragraph (b) of item 5 of this table, the applicant also declares that:
- (a) the sponsor is usually resident in a designated regional area; and
  - (b) the sponsor is related to the primary applicant, or the primary applicant's spouse or de facto partner (if the primary applicant's spouse or de facto partner is also an applicant for the grant of a Subclass 491 (Skilled Work (Provisional)) visa), as:
    - (i) a parent; or
    - (ii) a child or step-child; or
    - (iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or
    - (iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; or
    - (v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or
    - (vi) a grandparent; or
    - (vii) a first cousin; and
  - (c) each person who is also an applicant for the grant of a Subclass 491 (Skilled Work (Provisional)) visa, and claims to be a member of the family unit of the primary applicant, is sponsored by the sponsor
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- 7 The applicant declares in the application that each of the following has a genuine intention to live, work and study in a designated regional area:
- (a) the applicant;
  - (b) each person who is also an applicant for the grant of a Subclass 491 (Skilled Work Regional (Provisional)) visa and claims to be a member of the family unit of the applicant
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(5) The Minister may, by legislative instrument, specify skilled occupations for the purposes of item 4 of the table in subitem (4).

(6) Subclasses:  
491 (Skilled Work Regional (Provisional))

**20 Before paragraph 010.611(3B)(e) of Schedule 2**

Insert:

(db) a Skilled Work Regional (Provisional) (Class PS) visa; or

**21 Before paragraph 020.611(4)(e) of Schedule 2**

Insert:

(db) a Skilled Work Regional (Provisional) (Class PS) visa; or

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## **22 Before paragraph 030.613(1)(e) of Schedule 2**

Insert:

- (db) a Skilled Work Regional (Provisional) (Class PS) visa; or

## **23 At the end of Subdivision 124.21 of Schedule 2**

Add:

### **124.212**

- (1) If, at the time of application:
- (a) the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  - (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.
- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## **24 After clause 132.212 of Schedule 2**

Insert:

### **132.212A**

- (1) If, at the time of application:
- (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  - (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.
- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## **25 After clause 186.212A of Schedule 2**

Insert:

### **186.212B**

- (1) If, at the time of application:
- (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

- (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.

- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## **26 After clause 188.212 of Schedule 2**

Insert:

### **188.212A**

- (1) If, at the time of application:

- (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

- (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.

- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## **27 After clause 189.224 of Schedule 2**

Insert:

### **189.224A**

- (1) If, at the time of application:

- (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

- (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.

- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## **28 After clause 190.215 of Schedule 2**

Insert:

## 190.215A

- (1) If, at the time of application:
  - (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  - (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.
- (2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

## 29 After Part 489 of Schedule 2

Insert:

### Subclass 491—Skilled Work Regional (Provisional)

#### 491.1—Interpretation

- Note 1: For *competent English, designated regional area, registered course, relevant assessing authority* and *skilled occupation*, see regulation 1.03.
- Note 2: There are no interpretation provisions specific to this Part.

#### 491.2—Primary criteria

- Note 1: The primary criteria for the grant of a Subclass 491 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.
- Note 2: All criteria must be satisfied at the time a decision is made on the application.

#### 491.211

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) Each member of the family unit of the applicant who is an applicant for a Subclass 491 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.
- (4) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 491 visa; and
  - (b) had turned 16 at the time of application;satisfies public interest criterion 4019.
- (5) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 491 visa; and
  - (b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

- (6) Each member of the family unit of the applicant who is not an applicant for a Subclass 491 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

#### **491.212**

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 491 visa satisfies special return criteria 5001, 5002 and 5010.

#### **491.213**

The applicant was invited, in writing, by the Minister to apply for the visa.

#### **491.214**

- (1) At the time of invitation to apply for the visa:
  - (a) the relevant assessing authority for the applicant's nominated skilled occupation had assessed the applicant's skills as suitable for that occupation; and
  - (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and
  - (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and
  - (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.
- (2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

#### **491.215**

At the time of invitation to apply for the visa, the applicant had competent English.

#### **491.216**

- (1) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.
- (2) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 of Part 2, and Schedule 6D, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

#### 491.217

- (1) If the applicant is nominated by a State or Territory government agency, the nomination has not been withdrawn.
- (2) If the applicant declared in the application that the applicant is sponsored by a person (the *sponsor*), the Minister has accepted the sponsorship of the applicant by the sponsor in the following circumstances:
  - (a) the sponsor has turned 18;
  - (b) the sponsor is an Australian citizen, Australian permanent resident or eligible New Zealand citizen;
  - (c) the sponsor is usually resident in a designated regional area;
  - (d) the sponsor is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 491 visa), as:
    - (i) a parent; or
    - (ii) a child or step-child; or
    - (iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or
    - (iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; or
    - (v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or
    - (vi) a grandparent; or
    - (vii) a first cousin;
  - (e) each member of the family unit of the applicant who is also an applicant for a Subclass 491 visa is sponsored by the sponsor.

#### 491.3—Secondary criteria

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

#### 491.311

The applicant is a member of the family unit of a person who holds a Subclass 491 visa granted on the basis of satisfying the primary criteria for the grant of the visa.

#### 491.312

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

#### **491.313**

The applicant satisfies special return criteria 5001, 5002 and 5010.

### **491.4—Circumstances applicable to grant**

#### **491.411**

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

### **491.5—When visa is in effect**

#### **491.511**

If the applicant satisfies the primary criteria for the grant of the visa, temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant.

#### **491.512**

If:

- (a) the applicant satisfies the secondary criteria for the grant of the visa; and
- (b) the applicant is a member of the family unit of a person (the *primary visa holder*) who holds a Subclass 491 visa granted on the basis of satisfying the primary criteria for the grant of that visa;

temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant of the primary visa holder's visa.

### **491.6—Conditions**

#### **491.611**

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

- (a) first entry must be made before the date specified by the Minister; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

#### **491.612**

Conditions 8578, 8579, 8580 and 8581 must be imposed.

### **30 Before paragraph 773.213(3)(t) of Schedule 2**

Insert:

- (sb) Skilled Work Regional (Provisional) (Class PS);

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**31 At the end of paragraph 820.212(a) of Schedule 2**

Add:

(v) a Skilled Work Regional (Provisional) (Class PS) visa; or

**32 At the end of paragraph 820.212(b) of Schedule 2**

Add:

or (v) a Skilled Work Regional (Provisional) (Class PS) visa;

**33 At the end of paragraph 820.313(a) of Schedule 2**

Add:

(v) a Skilled Work Regional (Provisional) (Class PS) visa; or

**34 At the end of paragraph 820.313(b) of Schedule 2**

Add:

or (v) a Skilled Work Regional (Provisional) (Class PS) visa;

**35 At the end of Subdivision 858.21 of Schedule 2**

Add:

**858.213**

(1) If, at the time of application:

- (a) the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
- (b) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the applicant must have held that visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

**36 Part 6D.7A of Schedule 6D (table item 6D7A1, column headed “Number of points”)**

Omit “5”, substitute “10”.

**37 Part 6D.10 of Schedule 6D**

Repeal the Part, substitute:

**Part 6D.10—Study in designated regional area qualification**

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<b>Item</b>	<b>At the time of invitation to apply for the visa ...</b>	<b>Number of points</b>
6D101	each of the following applied: <ul style="list-style-type: none"><li>(a) the applicant met the Australian study requirement;</li><li>(b) the location of the campus or campuses at which that study was undertaken</li></ul>	5

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is in a designated regional area;

(c) while the applicant undertook the course of study the applicant lived in a designated regional area;

(d) none of the study undertaken constituted distance education

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**38 Part 6D.11 of Schedule 6D (heading)**

Omit “skill”.

**39 Part 6D.11 of Schedule 6D (table item 6D111, column headed “Number of points”)**

Omit “5”, substitute “10”.

**40 Part 6D.11 of Schedule 6D (at the end of the table)**

Add:

6D112	Either:	10
	(a) the applicant does not have a spouse or de facto partner; or	
	(b) the applicant has a spouse or de facto partner who is an Australian permanent resident or an Australian citizen	

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6D113	The spouse or de facto partner of the applicant (the <i>primary applicant</i> ):	5
	(a) is an applicant for the same subclass of visa as the primary applicant; and	
	(b) is not an Australian permanent resident or an Australian citizen; and	
	(c) at the time of invitation to apply for the visa, had competent English	

**41 Part 6D.13 of Schedule 6D (heading)**

Repeal the heading, substitute:

**Part 6D.13—Designated regional area nomination or sponsorship qualifications**

**42 Part 6D.13 of Schedule 6D (table item 6D131, column headed “Qualification”)**

After “visa”, insert “or a Subclass 491 (Skilled Work Regional (Provisional)) visa”.

**43 Part 6D.13 of Schedule 6D (table item 6D131, column headed “Number of points”)**

Omit “10”, substitute “15”.

**44 After clause 8577 of Schedule 8**

Insert:

8578	The holder must notify Immigration of a change to any of the following within 14 days after the change occurs:
	(a) the holder’s residential address;
	(b) an email address of the holder;
	(c) a phone number of the holder;
	(d) the holder’s passport details;
	(e) the address of an employer of the holder;

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(f) the address of the location of a position in which the holder is employed.

- 8579 (1) If the visa is a Subclass 491 (Skilled Work Regional (Provisional)) visa, the holder, while in Australia, must live, work and study only in a part of Australia that was a designated regional area at the time the visa was granted.
- (2) If:
- (a) the visa is a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
  - (b) the holder is:
    - (i) a person (the **primary person**) who satisfied the primary criteria for the grant of the visa; or
    - (ii) a person who is a member of the family unit of a person (the **primary person**) who satisfied the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- then, while in Australia during the regional residency period, the holder must live, work and study only in a part of Australia that was a designated regional area at the time the relevant nomination in relation to the primary person was made.
- (3) For the purposes of subclause (2), the **relevant nomination** in relation to the primary person is:
- (a) if the nomination (the **first nomination**) identified in the primary person's application is the first and only nomination that has been approved under subsection 140GB(2) of the Act in relation to the primary person for the purposes of the visa—the first nomination; or
  - (b) if:
    - (i) after the first nomination was approved, another nomination (a **later nomination**) has been approved under that subsection in relation to the primary person for the purposes of the visa; and
    - (ii) the primary person has commenced work, as the holder of the visa, in the position associated with the occupation nominated by that later nomination;that later nomination.
- (4) If the relevant nomination in relation to the primary person is the first nomination, then, for the purposes of subclause (2), the **regional residency period** is the period that:
- (a) starts:
    - (i) if the holder was in Australia at the time of grant—at that time; or
    - (ii) otherwise—at the time the holder first enters Australia as the holder of the visa; and
  - (b) ends:
    - (i) if another nomination is approved under subsection 140GB(2) of the Act in relation to the primary person for the purposes of the visa—at the end of the day before the day on which the primary person commences work, as the holder of the visa, in the position associated with the occupation nominated by that nomination; or
    - (ii) otherwise—at the time the holder's visa ceases to have effect.

- (5) If the relevant nomination in relation to the primary person is a later nomination, then, for the purposes of subclause (2), the **regional residency period** is the period that:
- (a) starts at the start of the day on which the primary person commences work, as the holder of the visa, in the position associated with the occupation nominated by the later nomination; and
  - (b) ends:
    - (i) if another nomination is approved under subsection 140GB(2) of the Act in relation to the primary person for the purposes of the visa—at the end of the day before the day on which the primary person commences work, as the holder of the visa, in the position associated with the occupation nominated by that nomination; or
    - (ii) otherwise—at the time the holder’s visa ceases to have effect.
- 8580 If requested, in writing, by the Minister to do so, the holder must provide evidence of any or all of the following within 28 days after the date of the request:
- (a) the holder’s residential address;
  - (b) the address of each employer of the holder;
  - (c) the address of each location of each position in which the holder is employed;
  - (d) the address of an educational institution attended by the holder.
- 8581 If requested, in writing, by the Minister to do so, the holder must attend an interview:
- (a) at a place and time specified in the request; or
  - (b) in a manner, and at a time, specified in the request.

## **Schedule 2—Amendments relating to the Skilled Employer Sponsored Regional (Provisional) visa**

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

#### **1 Regulation 1.03**

Insert:

***nomination end day***, in relation to a nomination under subsection 140GB(1) of the Act, means the day 3 months after the sponsorship end day in relation to the nomination.

***sponsorship end day***, in relation to a nomination under subsection 140GB(1) of the Act, means the day on which the approval as a standard business sponsor of the person who made the nomination ceases.

***transitional 457 worker*** means a person who on 18 April 2017:

- (a) held a Subclass 457 (Temporary Work (Skilled)) visa; or
- (b) was an applicant for a Subclass 457 (Temporary Work (Skilled)) visa that was subsequently granted.

***transitional 482 worker*** means a person who on 20 March 2019:

- (a) held a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream; or
- (b) was an applicant for a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream that was subsequently granted.

#### **2 After paragraph 1.20(4)(i)**

Insert:

- (ia) Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

#### **3 At the end of subregulation 2.05(4AA)**

Add:

- ; or (g) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

#### **4 At the end of paragraph 2.05(5A)(b)**

Add:

- ; or (vii) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

#### **5 Subregulation 2.06AAB(1) (before table item 15)**

Insert:

14B Subclass 494 (Skilled Employer Sponsored Regional (Provisional))

#### **6 At the end of subregulations 2.07AG(1) and (2)**

Add:

- ; or (g) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

**7 Subparagraph 2.08B(1)(a)(xiv)**

Omit “and”, substitute “or”.

**8 At the end of paragraph 2.08B(1)(a)**

Add:

- (xv) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;  
and

**9 After subregulation 2.12F(3B)**

Insert:

- (3C) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to a visa application if:
  - (a) the visa application is for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
  - (b) the visa application relates to a nomination of an occupation under subsection 140GB(1) of the Act; and
  - (c) the applicant for the visa withdraws the visa application in writing for any of the following reasons:
    - (i) the nomination, by mistake, identified the wrong occupation;
    - (ii) the nomination is withdrawn before a decision is made on the nomination under section 140GB of the Act because the nomination, by mistake, identified the wrong stream;
    - (iii) after the visa application was made, action was taken against the nominator under section 140K of the Act for a failure to satisfy an applicable sponsorship obligation;
    - (iv) after the visa application was made, the position associated with the nominated occupation ceased to be available to the applicant because the business within which the applicant was, or was to be, employed to work in the position ceased to operate lawfully in Australia;
    - (v) the nomination is withdrawn in the circumstances specified in subregulation 2.73C(3), (4), (5) or (6); and
  - (d) after the withdrawal, the Minister receives a written request for a refund from:
    - (i) the person who paid the amount (the *payer*); or
    - (ii) if the payer has died, or the payer has a serious physical or mental incapacity—the payer’s legal personal representative; or
    - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*—the trustee of the estate of the payer.

**10 At the end of paragraph 2.12F(7)(b)**

Add:

- or (vi) a person mentioned in subparagraph (3C)(d)(ii) or (iii);

**11 After paragraph 2.43(1)(kc)**

Insert:

- (kd) in the case of the holder of Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—that, despite the grant of the visa, the Minister is satisfied that:

- (i) the holder did not have a genuine intention at the time of grant of the visa to perform the occupation mentioned in subclause 494.213(2) of Schedule 2; or
- (ii) the holder has ceased to have a genuine intention to perform that occupation; or
- (iii) the position associated with that occupation is not genuine;

**12 Paragraph 2.43(1)(l)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**13 After subparagraph 2.43(1)(ld)(x)**

Insert:

- or (xi) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

**14 After subparagraph 2.43(1)(le)(v)**

Insert:

- or (vi) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

**15 After paragraph 2.56(m)**

Insert:

- (ma) the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

**16 Subregulation 2.57(1) (sub-subparagraphs (b)(i)(A) and (ii)(C) of the definition of *primary sponsored person*)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**17 Subregulation 2.57(1) (sub-subparagraphs (b)(i)(A), (ii)(A), (iii)(C) and (iv)(C) of the definition of *secondary sponsored person*)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**18 Subregulation 2.57(3A)**

After “paragraph 2.72(18)(a)”, insert “or 2.72C(17)(a)”.

**19 Subregulation 2.57(3A)**

After “subparagraph 2.79(3)(b)(iii)”, insert “or 2.79A(3)(a)(iii)”.

**20 Paragraphs 2.60S(2)(ba) and (bb)**

Omit “or 2.73A(3)”, substitute “, 2.73A(3) or 2.73B(5) or (7)”.

**21 Subparagraphs 2.60S(3)(a)(ia) and (b)(ia)**

Omit “or 2.73A(3)”, substitute “, 2.73A(3) or 2.73B(5) or (7)”.

## **22 Paragraph 2.72(5)(b)**

Repeal the paragraph, substitute:

- (b) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream:
  - (i) the person is a party to a work agreement (other than a Minister); and
  - (ii) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa.

## **23 Subregulation 2.72(13)**

Omit “and 2.86(2A)(b), subregulation 2.86(2AA), paragraph”, substitute “, 2.86(2A)(b) and (2AA)(ab) and”.

## **24 Paragraph 2.72(19)(c)**

Repeal the paragraph, substitute:

- (c) the number of nominations in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas made by the person and approved by the Minister under section 140GB of the Act is less than the number of approved nominations in relation to those types of visa permitted under the work agreement for the year.

## **25 After regulation 2.72B**

Insert:

### **2.72C Criteria for approval of nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa**

#### *Application of this regulation*

- (1) This regulation applies in relation to a person who:
  - (a) is any of the following:
    - (i) a standard business sponsor;
    - (ii) a person who has applied to be a standard business sponsor;
    - (iii) a party to a work agreement (other than a Minister);
    - (iv) a party to negotiations for a work agreement (other than a Minister);and
  - (b) under paragraph 140GB(1)(b) of the Act, nominates a proposed occupation in relation to a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the *nominee*).
- (2) For the purposes of paragraph 140GB(2)(b) of the Act, the criteria set out in this regulation are prescribed.

Note: In addition, subsection 140GB(2) of the Act requires the person to be an approved work sponsor and to have paid any nomination training contribution charge in relation to the nomination.

*General*

- (3) The Minister is satisfied that the person made the nomination in accordance with the process set out in regulation 2.73B.
- (4) The Minister is satisfied that either:
  - (a) there is no adverse information known to Immigration about the person or a person associated with the person; or
  - (b) it is reasonable to disregard any adverse information known to Immigration about the person or a person associated with the person.
- (5) The Minister is satisfied that:
  - (a) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the person is a standard business sponsor other than an overseas business sponsor; or
  - (b) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream:
    - (i) the person is a party to a work agreement (other than a Minister); and
    - (ii) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.
- (6) The Minister is satisfied that the position associated with the occupation is located at a place in a part of Australia that, when the nomination was made, was a designated regional area.

Note: Regulation 1.03 provides that *designated regional area* has the meaning set out in regulation 1.15M.
- (7) The Minister is satisfied that any debt due by the person as mentioned in section 140ZO of the Act (recovery of nomination training contribution charge and late payment penalty) has been paid in full.

*Information to be provided as part of nomination*

- (8) If the nominee holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the Minister is satisfied that the person has listed on the nomination each other holder of that kind of visa who was granted the visa on the basis of having the necessary relationship with the nominee as mentioned in clause 494.311 of Schedule 2.
- (9) However, the Minister may disregard the fact that one or more persons required to be listed on the nomination are not listed, if the Minister is satisfied it is reasonable in the circumstances to do so.

*Nominated occupation*

- (10) The Minister is satisfied that:
  - (a) the occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified in:
    - (i) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored

- stream—the instrument made under subregulation (11) in force at the time the nomination is made; or
- (ii) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream—the work agreement; and
- (b) the occupation applies to the nominee in accordance with the instrument or work agreement.
- (11) The Minister may, by legislative instrument, specify occupations and, for each occupation:
- (a) either:
- (i) the 6-digit ANZSCO code for the occupation; or
- (ii) if there is no 6-digit ANZSCO code for the occupation—a 6-digit code for the occupation; and
- (b) if there is no 6-digit ANZSCO code for the occupation—tasks, qualifications and experience for the occupation; and
- (c) any matters for the purpose of determining whether the occupation applies to a nominee, including matters relating to any of the following:
- (i) the person who nominated the occupation;
- (ii) the nominee;
- (iii) the occupation;
- (iv) the position in which the nominee is to work;
- (v) the circumstances in which the occupation is undertaken;
- (vi) the circumstances in which the nominee is to be employed in the position.
- (12) The Minister is satisfied that the position associated with the occupation is:
- (a) genuine; and
- (b) a full-time position; and
- (c) likely to exist for at least 5 years.

*Additional requirements in relation to Employer Sponsored stream*

- (13) If:
- (a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
- (b) the occupation is not an occupation specified by the Minister in an instrument made under subregulation (14);
- the Minister is satisfied that:
- (c) the nominee will be engaged only as an employee under a written contract of employment by the person or an associated entity of the person (the **employer**); and
- (d) the person will give the Minister a copy of the contract signed by the nominee and the employer; and
- (e) the terms and conditions of the nominee's employment will not include an express exclusion of the possibility of extending the period of employment.
- (14) The Minister may, by legislative instrument, specify occupations for the purposes of paragraph (13)(b) of this regulation, subregulation 2.73B(11),

paragraphs 2.73B(12)(c) and 2.86(2B)(b) and (2BA)(b), clause 494.222 of Schedule 2 and paragraph 8608(3)(a) of Schedule 8.

- (15) Subject to subregulation (16), if:
- (a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
  - (b) the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(b);
- the Minister is satisfied that:
- (c) the annual market salary rate for the occupation has been determined by the person in accordance with the instrument made under subregulation 2.72(17); and
  - (d) the annual market salary rate, excluding any non-monetary benefits, for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and
  - (e) the nominee's annual earnings in relation to the occupation will not be less than the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)); and
  - (f) the nominee's annual earnings, excluding any non-monetary benefits, in relation to the occupation will not be less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and
  - (g) either:
    - (i) there is no information known to Immigration that indicates that the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is inconsistent with Australian labour market conditions relevant to the occupation; or
    - (ii) it is reasonable to disregard any such information.
- (16) However:
- (a) the Minister may disregard the criterion in paragraph (15)(d) of this regulation if the Minister is satisfied that:
    - (i) the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and
    - (ii) it is reasonable in the circumstances to do so; and
  - (b) the Minister may disregard the criterion in paragraph (15)(f) of this regulation if the Minister is satisfied that it is reasonable in the circumstances to do so.
- (17) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the Minister is satisfied that:
- (a) either:

- (i) there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply to the nominee are less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or
    - (ii) it is reasonable to disregard any such information; and
  - (b) the person has not engaged in discriminatory recruitment practices.
- (18) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the Minister is satisfied that the Minister has been advised by a body that meets the requirements set out in subregulation (19) about whether the nominee would be paid at least the annual market salary rate for the occupation.
- (19) For the purposes of subregulation (18), the body must:
- (a) be specified by the Minister under subregulation (20); and
  - (b) be located in the State or Territory in which the position is located; and
  - (c) have responsibility for the part of Australia mentioned in subregulation (6).
- (20) The Minister may, by legislative instrument, specify bodies for the purposes of paragraph (19)(a).

*Additional requirements in relation to Labour Agreement stream*

- (21) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream, the Minister is satisfied that:
- (a) the occupation is specified in the work agreement as an occupation that the person may nominate; and
  - (b) if the work agreement specifies requirements that must be met by a party to the work agreement—the requirements of the work agreement have been met; and
  - (c) the number of nominations in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas made by the person and approved by the Minister under section 140GB of the Act is less than the number of approved nominations in relation to visas of that type permitted under the work agreement for the year.

**26 After subparagraph 2.73(9)(b)(i)**

Insert:

- (ia) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa; and

**27 After paragraph 2.73(15)(a)**

Insert:

- (aa) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa; and

### **28 Subparagraph 2.73AA(3)(c)(i)**

After “nominate”, insert “in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas”.

### **29 Subparagraph 2.73AA(3)(c)(ii)**

Repeal the subparagraph, substitute:

- (ii) the number of nominations in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas made by the person and approved by the Minister under section 140GB of the Act is equal to or greater than the number of approved nominations in relation to those types of visa permitted under the work agreement for the year.

### **30 After regulation 2.73A**

Insert:

### **2.73B Process for nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa**

#### *Application of this regulation*

- (1) This regulation applies in relation to a person who is nominating a proposed occupation under paragraph 140GB(1)(b) of the Act in relation to a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the *nominee*).
- (2) For the purposes of subsection 140GB(3) of the Act, the person may nominate a proposed occupation in accordance with the process set out in this regulation.

#### *General requirements for nominations*

- (3) The nomination must be made using the internet.
- (4) The nomination must be made using the form specified by the Minister under paragraph (14)(a).
- (5) The nomination must be accompanied by the fee specified by the Minister under paragraph (14)(b).
- (6) The nomination must be accompanied by any nomination training contribution charge the person is liable to pay in relation to the nomination.

#### *Alternative method of nominations*

- (7) The following paragraphs apply if the Minister specifies under paragraph (14)(c) a different way of making a nomination of an occupation in specified circumstances:
  - (a) the application may be made in that way in those circumstances (instead of using the internet);
  - (b) if the nomination is made in that way and the Minister specifies under that paragraph a form for that way of making the nomination, the nomination must be made using that form (instead of the form mentioned in subregulation (4));

- (c) if the nomination is made in that way and the Minister specifies under that paragraph a different fee for making the nomination in that way, the nomination must be accompanied by that fee (instead of the fee mentioned in subregulation (5)).

Note: Subregulation (3) relates to making nominations on the internet. It may be necessary for the Minister to specify arrangements other than those in subregulations (3) to (5) if special circumstances exist.

*Information to be included in nominations*

- (8) The nomination must identify the nominee.
- (9) The person must provide the following information as part of the nomination:
- (a) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the name of the occupation and the corresponding 6-digit code as they are specified in the instrument made under subregulation 2.72C(11) in force at the time the nomination is made;
  - (b) if:
    - (i) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
    - (ii) the person is a party to a work agreement or negotiations for a work agreement; and
    - (iii) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;  
the name of the occupation and the corresponding 6-digit code (if any) as they are specified in the work agreement or proposed work agreement;
  - (c) the location or locations at which the occupation is to be carried out;
  - (d) the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination;
  - (e) if the nominee holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the date of grant of the visa;
  - (f) any other information specified by the Minister under paragraph (14)(d).
- (10) The person must certify as part of the nomination, in writing, whether or not the person has engaged in conduct, in relation to the nomination, that constitutes a contravention of subsection 245AR(1) of the Act.
- (11) Unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), the person must certify as part of the nomination, in writing, that:
- (a) the employment contract entered into with the nominee complies; or
  - (b) the employment contract to be entered into with the nominee will, when entered, comply;
- with all applicable requirements imposed by Commonwealth, State or Territory law relating to employment including, if applicable, the National Employment Standards (within the meaning of the *Fair Work Act 2009*).

*Additional requirements in relation to Employer Sponsored stream*

- (12) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the person must certify as part of the nomination, in writing:
- (a) that the tasks of the position include a significant majority of the tasks specified for the occupation in:
    - (i) ANZSCO; or
    - (ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72C(11) in force at the time the nomination is made; and
  - (b) that the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in:
    - (i) ANZSCO; or
    - (ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72C(11) in force at the time the nomination is made; and
  - (c) unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), that the occupation is a position in:
    - (i) the person's business; or
    - (ii) a business of an associated entity of the person.

*Additional requirements in relation to Labour Agreement stream*

- (13) If:
- (a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
  - (b) the person is a party to a work agreement or negotiations for a work agreement; and
  - (c) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- the person must certify as part of the nomination, in writing, that:
- (d) the tasks of the position include a significant majority of the tasks specified for the occupation in:
    - (i) ANZSCO; or
    - (ii) if there is no ANZSCO code for the occupation—the work agreement or proposed work agreement; and
  - (e) the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in the work agreement or proposed work agreement.

*Minister may make legislative instruments*

- (14) The Minister may, by legislative instrument, specify any of the following:
- (a) for the purposes of subregulation (4), the form in which a nomination must be made;

- (b) for the purposes of subregulation (5), the fee that must accompany a nomination;
- (c) for the purposes of subregulation (7), any of the following:
  - (i) a way of making a nomination and circumstances in which a nomination may be made in that way;
  - (ii) the form in which a nomination must be made if the nomination is made in a way specified under subparagraph (i);
  - (iii) the fee that must accompany a nomination if the nomination is made in a way specified under subparagraph (i);
- (d) for the purposes of paragraph (9)(f), information that must be provided as part of a nomination.

**2.73C Refund of nomination fee and nomination training contribution charge—  
Subclass 494 (Skilled Employer Sponsored Regional (Provisional))  
visa**

- (1) The Minister may refund the fee mentioned in subregulation 2.73B(5) or (7), or any nomination training contribution charge mentioned in subregulation 2.73B(6), paid in relation to a nomination if:
  - (a) any of subregulations (2) to (8) of this regulation apply; and
  - (b) the Minister:
    - (i) receives a written request for a refund from the person who paid the amount; or
    - (ii) considers it is reasonable in the circumstances to refund the amount to the person who paid the amount without receiving a written request for a refund.
- (2) This subregulation applies if the nomination is made because of a mistake by Immigration.
- (3) This subregulation applies if:
  - (a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
  - (b) the person is a party to a work agreement; and
  - (c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:
    - (i) the person has listed an occupation in the nomination that is not specified in the work agreement as an occupation that the person may nominate in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas; or
    - (ii) the number of nominations in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas made by the person and approved by the Minister under section 140GB of the Act is equal to or greater than the number of approved nominations in relation to that type of visa permitted under the work agreement for the year.
- (4) This subregulation applies if:
  - (a) the person withdraws the nomination before a decision is made under section 140GB of the Act; and
  - (b) the reason for withdrawing the nomination is that:

- (i) the nomination, by mistake, identified the wrong occupation or stream; or
  - (ii) the information in the nomination used to work out the amount of nomination training contribution charge in relation to the nomination was incorrect.
- (5) This subregulation applies if:
  - (a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
  - (b) at the time the person made the nomination, the person had applied to be approved as a standard business sponsor; and
  - (c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:
    - (i) the person has withdrawn the application to be approved as a standard business sponsor; or
    - (ii) the Minister has refused to approve the person as a standard business sponsor.
- (6) This subregulation applies if:
  - (a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
  - (b) the person withdraws the nomination before a work agreement is entered.
- (7) This subregulation applies if:
  - (a) an application for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa made on the basis of the nomination is finally determined; and
  - (b) the grant of the visa is refused:
    - (i) under section 501, 501A or 501B of the Act; or
    - (ii) because the visa applicant did not satisfy public interest criterion 4001, 4002, 4003, 4005, 4007 or 4020.
- (8) This subregulation applies if:
  - (a) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa is granted on the basis of the nomination; and
  - (b) the visa holder fails to commence employment in the position associated with the nominated occupation.
- (9) If:
  - (a) a nomination made in relation to a person (the *nominee*) is approved; and
  - (b) the nominee ceases to be employed by the person who made the nomination within 1 year after commencing employment with the person; and
  - (c) the Minister:
    - (i) receives a written request for a refund from the person; or
    - (ii) considers it is reasonable in the circumstances to give a refund without receiving a written request for a refund;

the Minister may refund any nomination training contribution charge mentioned in subregulation 2.73B(6) paid in relation to the nomination, less:

- (d) if the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination is less than \$10,000,000—\$600; or
- (e) otherwise—\$1,000.

- (10) A refund under subregulation (1) or (9) must be paid to the person who paid the amount.

### **31 Subregulation 2.75(3)**

Repeal the subregulation.

### **32 At the end of Division 2.17**

Add:

#### **2.75B Period of approval of nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa**

- (1) This regulation applies in relation to a nomination by a person of an occupation in which a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the *nominee*) is identified as the person who will work in the occupation.
- (2) An approval of a nomination ceases on the earliest of:
  - (a) the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the approved work sponsor; and
  - (b) 12 months after the day on which the nomination is approved unless, at that time, there is a visa application made by the nominee on the basis of the nomination that has not been finally determined; and
  - (c) if a visa application made by the nominee on the basis of the nomination is finally determined or withdrawn after 12 months after the day on which the nomination is approved—the day on which the visa application is finally determined or withdrawn; and
  - (d) the day on which the nominee is granted a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
  - (e) if the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the nomination end day, unless, on the nomination end day:
    - (i) the person is a standard business sponsor; or
    - (ii) there is an application for approval as a standard business sponsor made by the person before the sponsorship end day in relation to which a decision has not been made under subsection 140E(1) of the Act; and
  - (f) the day on which an application mentioned in subparagraph (e)(ii) is refused; and
  - (g) if:
    - (i) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
    - (ii) the person's approval as a standard business sponsor is cancelled under subsection 140M(1) of the Act;

the day on which the person's approval as a standard business sponsor is cancelled; and

- (h) if the approval of the nomination is given to a party to a work agreement (other than a Minister) and the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream—the day on which the work agreement ceases.

### **33 Paragraph 2.76(2)(b)**

After “Subclass 482 (Temporary Skill Shortage) visa”, insert “or Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

### **34 Regulation 2.79 (at the end of the heading)**

Add “—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa”.

### **35 After regulation 2.79**

Insert:

#### **2.79A Obligation to ensure equivalent terms and conditions of employment— Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa**

- (1) This regulation applies:
  - (a) to a person who is or was a standard business sponsor of a primary sponsored person if:
    - (i) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
    - (ii) the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  - (b) to a person who is or was a party to a work agreement (other than a Minister), and who is or was an approved work sponsor of a primary sponsored person, if:
    - (i) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
    - (ii) the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.
- (2) This regulation does not apply to a standard business sponsor of a primary sponsored person if the annual earnings of the primary sponsored person are equal to or greater than the amount specified by the Minister in an instrument in writing for the purposes of paragraph 2.79(1A)(b).
- (3) The person must ensure that:
  - (a) if the person is mentioned in paragraph (1)(a):
    - (i) the primary sponsored person's annual earnings in relation to the occupation are not less than the annual earnings the person indicated, at the time the nomination was approved, would be provided to the primary sponsored person for the occupation; and

- (ii) the primary sponsored person's earnings in relation to the occupation are not less than the earnings an Australian citizen or an Australian permanent resident earns or would earn for performing equivalent work in the same workplace at the same location; and
    - (iii) the employment conditions (other than in relation to earnings) that apply to the primary sponsored person are no less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or
  - (b) if the person is mentioned in paragraph (1)(b), the terms and conditions of employment provided to the primary sponsored person are no less favourable than the terms and conditions of employment set out in the work agreement.
- (4) The obligations mentioned in subregulation (3):
  - (a) start to apply on:
    - (i) the day on which the Minister approves a nomination by the person in which the primary sponsored person is identified; or
    - (ii) if the primary sponsored person does not hold a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa on the day the Minister approves the nomination—the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and
  - (b) end on the earlier of:
    - (i) the day on which the primary sponsored person is granted a further substantive visa that:
      - (A) is not a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
      - (B) is in effect; and
    - (ii) the day on which the primary sponsored person ceases employment with the person.

### **36 Subparagraphs 2.80(1)(d)(i) and (ii) and (e)(i) and (ii)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

### **37 Paragraph 2.80(3)(d)**

Omit “or the Subclass 482 (Temporary Skill Shortage) visa”, substitute “, the Subclass 482 (Temporary Skill Shortage) visa or the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

### **38 Subparagraph 2.80(5)(a)(ii)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

### **39 Sub-subparagraph 2.80(5)(b)(iii)(B)**

Omit “or the Subclass 482 (Temporary Skill Shortage) visa”, substitute “, the Subclass 482 (Temporary Skill Shortage) visa or the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**40 Sub-sub-subparagraph 2.80(5)(b)(iii)(C)(II)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**41 Sub-subparagraph 2.80(5)(c)(iii)(B)**

Omit “or the Subclass 482 (Temporary Skill Shortage) visa”, substitute “, the Subclass 482 (Temporary Skill Shortage) visa or the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**42 Sub-sub-subparagraph 2.80(5)(c)(iii)(C)(II)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**43 Subparagraphs 2.82(3)(c)(i) and (ii)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**44 Paragraph 2.82(3)(e)**

After “regulation 2.79”, insert “or 2.79A”.

**45 Subregulation 2.86(2)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa” (wherever occurring), substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**46 Subregulation 2.86(2AA)**

Omit all the words before paragraph (a), substitute:

(2AA) If:

- (aa) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa, or the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and
  - (ab) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13); and
  - (ac) the person is, or was, a standard business sponsor;
- the person must ensure that:

**47 After subregulation 2.86(2AB)**

Insert:

(2B) If:

- (a) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

- (b) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72C(14);

the person must ensure that:

- (c) if the person is, or was, a standard business sponsor—the primary sponsored person is engaged only as:
  - (i) an employee of the person; or
  - (ii) an employee of an associated entity of the person; or
- (d) if the person is or was a party to a work agreement—the primary sponsored person is engaged only as an employee of the person.

(2BA) If:

- (a) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
- (b) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72C(14); and
- (c) the person is, or was, a standard business sponsor;

the person must ensure that:

- (d) the primary sponsored person is employed under a written contract of employment; and
- (e) the person does not engage in activities that relate to the recruitment of a visa holder, an applicant for a visa or a proposed applicant for a visa for the purpose of supplying the holder, applicant or proposed applicant to a business that is not associated with the person; and
- (f) the person does not engage in activities that relate to the hire of a visa holder to a business that is not associated with the person.

#### **48 Subregulation 2.86(2C)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa” (wherever occurring), substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

#### **49 Subregulation 2.86(3)**

Omit “, (2A) and”, substitute “to”.

#### **50 Subparagraphs 2.87(1A)(a)(iiia) and (b)(iiia) and (1B)(a)(iiia) and (b)(iiia)**

Omit “or 2.73A(3)”, substitute “, 2.73A(3) or 2.73B(5) or (7)”.

#### **51 After paragraph 4.02(1A)(I)**

Insert:

- (la) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

#### **52 Paragraph 4.02(4)(I)**

Omit “or a Subclass 482 (Temporary Skill Shortage) visa”, substitute “, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa”.

**53 Subparagraph 4.02(4)(l)(i)**

After “regulation 2.75”, insert “or 2.75B”.

**54 Before paragraph 5.19(2)(a)**

Insert:

- (aa) if the application identifies a Subclass 187 (Regional Sponsored Migration Scheme) visa—be made before 16 November 2019 (subject to subclause (2A)); and

**55 After subregulation 5.19(2)**

Insert:

(2A) Paragraph (2)(aa) does not apply if:

- (a) the application identifies a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream; and
- (b) the identified person is a transitional 457 worker or transitional 482 worker at the time the application is made.

**56 At the end of regulation 5.19M**

Add:

- ; (h) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

**57 Before paragraph 5.35AB(1)(m)**

Insert:

- (lb) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

**58 At the end of subregulation 5.42(1)**

Add:

- ; (d) a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
- (e) an applicant or a proposed applicant for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

**59 Before paragraph 1114C(3)(a) of Schedule 1**

Insert:

- (aa) Subject to subitem (3A), an application by a person seeking to satisfy the primary criteria in a stream must be made before 16 November 2019.

**60 After subitem 1114C(3) of Schedule 1**

Insert:

(3A) Paragraph (3)(aa) does not apply if:

- (a) the stream is the Temporary Residence Transition stream; and
- (b) the applicant is a transitional 457 worker or transitional 482 worker at the time the application is made.

**61 At the end of Part 2 of Schedule 1**

Add:

**1242 Skilled Employer Sponsored Regional (Provisional) (Class PE)**

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

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

<b>First instalment</b>		
<b>Item</b>	<b>Component</b>	<b>Amount</b>
1	Base application charge	\$3,755
2	Additional applicant charge for an applicant who is at least 18	\$1,875
3	Additional applicant charge for an applicant who is less than 18	\$940

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa):

<b>Second instalment</b>		
<b>Item</b>	<b>Applicant</b>	<b>Amount</b>
1	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and (d) to whom item 3 does not apply	\$9,800
2	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the secondary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and (d) to whom item 3 does not apply	\$4,890
3	Applicant who: (a) satisfies the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa on the basis of a nomination of the occupation of Minister of Religion; or (b) is a member of the family unit of an applicant referred to in paragraph (a)	Nil
4	Any other applicant	Nil

(3) Other:

(a) 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).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

- (c) An applicant in Australia must hold:
- (i) a substantive visa; or
  - (ii) a Subclass 010 (Bridging A) visa; or
  - (iii) a Subclass 020 (Bridging B) visa; or
  - (iv) a Subclass 030 (Bridging C) visa.
- (d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa may be made at the same time as, and combined with, an application by that person.
- (4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa must meet the requirements in the table.

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**Requirements for applicants seeking to satisfy primary criteria**

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Item	Requirements
1	A person must have nominated a proposed occupation (the <i>nominated occupation</i> ) in relation to the applicant for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in a stream
2	The application must be for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the stream for which the nominated occupation was nominated
3	The application must identify the nomination
4	One of the following must apply: <ul style="list-style-type: none"> <li>(a) the nomination has been approved under section 140GB of the Act and the approval of the nomination has not ceased under regulation 2.75B;</li> <li>(b) a decision in respect of the nomination has not been made under section 140GB of the Act</li> </ul>
5	The person who made the nomination must not be the subject of a bar under section 140M of the Act
6	The applicant must declare in the application (the <i>primary application</i> ) whether or not either: <ul style="list-style-type: none"> <li>(a) the applicant; or</li> <li>(b) any person who has made a combined application with the applicant;</li> </ul> has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act

- (5) Subject to subitem (6), an applicant seeking to satisfy the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream must declare in the application that:
- (a) the applicant's skills have been assessed as suitable by the person or body specified by the Minister under subclause 494.224(6) of Schedule 2 as the assessing authority for the nominated occupation; and
  - (b) the assessment is not for a Subclass 485 (Temporary Graduate) visa.
- (6) Subitem (5) does not apply in circumstances specified by the Minister in a legislative instrument made for the purposes of this subitem under subregulation 2.07(5).
- (7) Subclasses:
- 494 (Skilled Employer Sponsored Regional (Provisional))

**62 Sub-subparagraph 010.211(4)(a)(i)(B) of Schedule 2**

Omit “or 8607”, substitute “, 8607 or 8608”.

**63 After paragraph 010.611(3B)(d) of Schedule 2**

Insert:

(da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or

**64 Subclause 010.611(4) of Schedule 2**

Omit “and 8607”, substitute “, 8607 and 8608”.

**65 After paragraph 020.611(4)(d) of Schedule 2**

Insert:

(da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or

**66 Subclause 020.611(5) of Schedule 2**

Omit “and 8607”, substitute “, 8607 and 8608”.

**67 After paragraph 030.613(1)(d) of Schedule 2**

Insert:

(da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or

**68 Clause 482.241 of Schedule 2**

Repeal the clause, substitute:

**482.241**

Both:

- (a) the nominated occupation is the subject of a work agreement between the Commonwealth and the person who nominated the nominated occupation; and
- (b) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 visa.

**69 Before Part 500 of Schedule 2**

Insert:

**Subclass 494—Skilled Employer Sponsored Regional  
(Provisional)**

**494.1—Interpretation**

**494.111**

In this Part:

***nominated occupation***, in relation to an applicant, means the occupation nominated by the nomination identified in the application.

## 494.2—Primary criteria

- Note: The primary criteria for the grant of a Subclass 494 visa include criteria set out in streams.
- If an applicant applies for a Subclass 494 visa in the Employer Sponsored stream, the criteria in Subdivisions 494.21 and 494.22 are the primary criteria for the grant of the visa.
- If an applicant applies for a Subclass 494 visa in the Labour Agreement stream, the criteria in Subdivisions 494.21 and 494.23 are the primary criteria.
- The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.
- All criteria must be satisfied at the time a decision is made on the application.

## 494.21—Common criteria

- Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 494 visa.

### 494.211

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.
- (4) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 494 visa; and
  - (b) had turned 16 at the time of application;satisfies public interest criterion 4019.
- (5) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 494 visa; and
  - (b) has not turned 18;satisfies public interest criteria 4015 and 4016.
- (6) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

### 494.212

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies special return criteria 5001, 5002 and 5010.

### 494.213

- (1) Each of the following applies:
  - (a) the nomination identified in the application has been approved under section 140GB of the Act;

- (b) the person who made the nomination was an approved work sponsor at the time the nomination was approved;
  - (c) the approval of the nomination has not ceased under regulation 2.75B.
- (2) Both of the following apply:
- (a) the applicant's intention to perform the nominated occupation is genuine;
  - (b) the position associated with the nominated occupation is genuine.

#### **494.214**

Either:

- (a) there is no adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person; or
- (b) it is reasonable to disregard any adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person.

#### **494.215**

Either:

- (a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or
- (b) both of the following apply:
  - (i) the applicant has engaged in such conduct in that period;
  - (ii) the Minister considers that it is reasonable to disregard the conduct.

#### **494.22—Criteria for Employer Sponsored stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 494 visa in the Employer Sponsored stream.

#### **494.221**

- (1) The applicant satisfies public interest criterion 4007.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criterion 4007.
- (3) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criterion 4007, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

#### **494.222**

Unless the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), both of the following apply:

- (a) the applicant is employed to work in the nominated occupation;
- (b) the applicant is employed to work in a position in:
  - (i) the person's business; or
  - (ii) a business of an associated entity of the person.

**494.223**

- (1) At the time of application:
  - (a) the applicant had not turned 45; or
  - (b) circumstances specified by the Minister under subclause (2) existed.
- (2) The Minister may, by legislative instrument, specify circumstances in which applicants are not required to have been under 45 for the purposes of Subclass 494 visas in the Employer Sponsored stream.

**494.224**

- (1) At the time of application:
  - (a) subclauses (2) and (3) applied; or
  - (b) subclauses (4) and (5) applied; or
  - (c) circumstances specified by the Minister under subclause (7) existed.

*Recent assessments*

- (2) All of the following applied:
  - (a) the applicant's skills had been assessed as suitable by the person or body specified by the Minister under subclause (6) as the assessing authority for the nominated occupation;
  - (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa;
  - (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended;
  - (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.
- (3) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

*Assessments for purposes of previous visas*

- (4) Both of the following applied:
  - (a) the applicant held a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa in relation to which all of the following applied:
    - (i) the occupation to which that visa related was the nominated occupation;
    - (ii) the applicant was required to demonstrate the matters mentioned in former paragraph 457.223(2)(d) or (4)(e) or subclause 482.212(4) in relation to that visa;
    - (iii) that demonstration included demonstrating that a person or body had assessed the applicant's skills as suitable for the occupation;
    - (iv) the assessment was not for a Subclass 485 (Temporary Graduate) visa;
  - (b) the person or body mentioned in subparagraph (a)(iii) was specified by the Minister under subclause (6) as the assessing authority for the nominated occupation.

- (5) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

*Minister may make legislative instruments*

- (6) For the purposes of paragraph 1242(5)(a) of Schedule 1 and paragraphs (2)(a) and (4)(b) of this clause, the Minister may, by legislative instrument, specify a person or body as the assessing authority for an occupation.
- (7) The Minister may, by legislative instrument, specify circumstances in which the requirements of subclauses (2) to (5) are not required to have been met for the purposes of Subclass 494 visas in the Employer Sponsored stream.

#### **494.225**

- (1) At the time of application:
- (a) the applicant had been employed in the nominated occupation for at least 3 years on a full-time basis and at the level of skill required for the occupation; or
  - (b) circumstances specified by the Minister under subclause (2) existed.
- (2) The Minister may, by legislative instrument, specify circumstances in which an applicant is not required to have been employed as mentioned in paragraph (1)(a) for the purposes of Subclass 494 visas in the Employer Sponsored stream.

#### **494.226**

- (1) At the time of application:
- (a) the applicant had competent English; or
  - (b) circumstances specified by the Minister under subclause (2) existed.
- (2) The Minister may, by legislative instrument, specify circumstances in which applicants are not required to have had competent English for the purposes of Subclass 494 visas in the Employer Sponsored stream.

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

#### **494.23—Criteria for Labour Agreement stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 494 visa in the Labour Agreement stream.

#### **494.231**

- (1) The applicant satisfies public interest criterion 4005.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criterion 4005.
- (3) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

#### 494.232

Both:

- (a) the nominated occupation is the subject of a work agreement between the Commonwealth and the person who nominated the nominated occupation; and
- (b) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 visa.

#### 494.233

Either:

- (a) the applicant had not turned 45 at the time of application; or
- (b) the Minister has agreed, in the work agreement mentioned in clause 494.232, that persons who have turned 45 may be employed.

#### 494.234

The applicant has English language skills that are suitable to perform the nominated occupation.

#### 494.235

- (1) The applicant has the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation.
- (2) Either:
  - (a) the applicant has worked in the nominated occupation or a related field for at least 3 years; or
  - (b) the Minister considers that it is reasonable in the circumstances to disregard paragraph (a).
- (3) If the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that he or she has those skills in the manner specified by the Minister.

### 494.3—Secondary criteria

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

#### 494.31—Criteria

##### 494.311

The applicant is a member of the family unit of a person (the *primary applicant*) who holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa.

**494.312**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.
- (4) If the primary applicant holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa in the Employer Sponsored stream, the applicant satisfies public interest criterion 4007.
- (5) If the primary applicant holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa in the Labour Agreement stream, the applicant satisfies public interest criterion 4005.

**494.313**

The applicant satisfies special return criteria 5001, 5002 and 5010.

**494.314**

Either:

- (a) the applicant is listed on the nomination identified in the primary applicant's application; or
- (b) the approved work sponsor or former approved work sponsor who has the most recent approved nomination under section 140GB of the Act of an occupation in relation to the primary applicant for the visa mentioned in clause 494.311 has agreed in writing that the applicant may be a secondary sponsored person in relation to the approved work sponsor or former approved work sponsor.

**494.315**

Either:

- (a) there is no adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person; or
- (b) the Minister considers that it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person.

**494.316**

Either:

- (a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or
- (b) both of the following apply:
  - (i) the applicant has engaged in such conduct in that period;

- (ii) the Minister considers that it is reasonable to disregard the conduct.

## 494.4—Circumstances applicable to grant

### 494.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

## 494.5—When visa is in effect

### 494.511

If the applicant satisfies the primary criteria for the grant of the visa, temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant.

### 494.512

If:

- (a) the applicant satisfies the secondary criteria for the grant of the visa; and
- (b) the applicant is a member of the family unit of a person (the *primary visa holder*) who holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of that visa;

temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant of the primary visa holder's visa.

## 494.6—Conditions

### 494.611

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

- (a) first entry must be made before the date specified by the Minister; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

### 494.612

If the applicant satisfies the primary criteria for the grant of the visa, conditions 8578, 8579, 8580, 8581 and 8608 must be imposed.

### 494.613

If the applicant satisfies the secondary criteria for the grant of the visa, the same conditions (other than condition 8608) that must be imposed on the visa held by the person who satisfies the primary criteria for the grant of the visa must be imposed.

## 70 After paragraph 773.213(3)(s) of Schedule 2

Insert:

(sa) Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;

**71 At the end of paragraph 820.212(a) of Schedule 2**

Add:

(vi) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;  
or

**72 At the end of paragraph 820.212(b) of Schedule 2**

Add:

or (vi) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;

**73 At the end of paragraph 820.313(a) of Schedule 2**

Add:

(vi) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;  
or

**74 At the end of paragraph 820.313(b) of Schedule 2**

Add:

or (vi) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa;

**75 At the end of Schedule 8**

Add:

- 8608 (1) The holder must work only in the occupation (the *nominated occupation*) nominated by the nomination identified in the application for the most recent Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa granted to the holder.
- (2) Unless subclause (3) applies, the holder must:
- (a) if the most recent Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa granted to the holder is in the Employer Sponsored stream—work only in a position in:
    - (i) the person’s business; or
    - (ii) a business of an associated entity of the person; or
  - (b) if the most recent Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa granted to the holder is in the Labour Agreement stream—work only for the person who nominated the nominated occupation.
- (3) This subclause applies if:
- (a) the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14); or
  - (b) the holder is continuing to work for a person for the purpose of fulfilling a requirement under a law relating to industrial relations and relating to the giving of notice.
- (4) Subject to subclause (6), the holder must commence work within:
- (a) if the holder was outside Australia when the visa was granted—90 days after the holder’s arrival in Australia; or
  - (b) if the holder was in Australia when the visa was granted—90 days after the holder’s visa was granted.

- (5) If the holder ceases employment, the period during which the holder ceases employment must not exceed 90 consecutive days.
- (6) If the holder is required to hold a licence, registration or membership (the **authorisation**) that is mandatory to perform the nominated occupation in the location where the holder's position is situated, the holder must:
  - (a) hold the authorisation within:
    - (i) if the holder was outside Australia when the visa was granted—90 days after the holder's arrival in Australia; or
    - (ii) if the holder was in Australia when the visa was granted—90 days after the holder's visa was granted; and
  - (b) continue to hold the authorisation while the holder is performing the occupation; and
  - (c) notify Immigration, in writing, as soon as practicable if an application for the authorisation is refused; and
  - (d) comply with each condition or requirement to which the authorisation is subject; and
  - (e) not engage in work that is inconsistent with the authorisation, including any conditions or requirements to which the authorisation is subject; and
  - (f) notify Immigration, in writing, as soon as practicable if the authorisation ceases to be in force or is revoked or cancelled.

## 76 In the appropriate position in Schedule 13

Insert:

## Part 81—Amendments made by the Migration Amendment (New Skilled Regional Visas) Regulations 2019

### 8101 Transitional provisions in relation to Subclass 187 (Regional Sponsored Migration Scheme) visa

- (1) This clause applies in relation to a nomination under regulation 5.19 if:
  - (a) the nomination relates to a Subclass 187 (Regional Sponsored Migration Scheme) visa; and
  - (b) the person identified in the nomination:
    - (i) did not apply for a Subclass 187 (Regional Sponsored Migration Scheme) visa on the basis of the nomination on or before 16 November 2019; and
    - (ii) if the nomination relates to a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream—is not a transitional 457 worker or transitional 482 worker.

*Applications for approval of nominations that are not decided before  
16 November 2019*

- (2) An application for approval of the nomination is taken to be withdrawn on 16 November 2019 if:
  - (a) the Minister did not approve, and did not refuse to approve, the nomination under subregulation 5.19(3) on or before 15 November 2019; and
  - (b) the application was not withdrawn on or before 15 November 2019.

*Refund of nomination training contribution charge*

- (3) The Minister must refund any nomination training contribution charge mentioned in paragraph 5.19(2)(fa) paid in relation to the nomination if:
- (a) either:
    - (i) the application for approval of the nomination is taken to be withdrawn under subclause (2) of this clause; or
    - (ii) the Minister refused to approve the nomination under subregulation 5.19(3)(b), and on 16 November 2019 the application for approval is not finally determined; and
  - (b) the Minister:
    - (i) receives a written request for a refund from the person who paid the charge; or
    - (ii) considers it is reasonable in the circumstances to refund the charge to the person who paid the charge without receiving a written request for a refund.
- (4) The Minister may refund any nomination training contribution charge mentioned in paragraph 5.19(2)(fa) paid in relation to the nomination if:
- (a) the Minister approved the nomination under paragraph 5.19(3)(a) on or before 15 November 2019; and
  - (b) the Minister:
    - (i) receives a written request for a refund from the person who paid the charge; or
    - (ii) considers it is reasonable in the circumstances to refund the charge to the person who paid the amount without receiving a written request for a refund.
- (5) A refund under subclause (3) or (4) must be paid to the person who paid the charge.

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## Schedule 3—Amendments relating to the Permanent Residence (Skilled Regional) visa

### *Migration Regulations 1994*

#### 1 Regulation 1.03

Insert:

*regional provisional visa* means:

- (a) a Subclass 491 (Skilled Work Regional (Provisional)) visa; or
- (b) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

#### 2 Subregulation 1.12(5) (at the end of the table)

Add:

- |   |   |  |
|---|---|--|
| 9 | Permanent Residence (Skilled Regional)<br>(Class PR) visa | Any of the following visas: <ul style="list-style-type: none"><li>(a) Subclass 491 (Skilled Work Regional (Provisional)) visa;</li><li>(b) Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa</li></ul> |
|---|---|--|

#### 3 After paragraph 5.35AB(1)(g)

Insert:

- (ga) a Subclass 191 (Permanent Residence (Skilled Regional)) visa;

#### 4 At the end of Part 1 of Schedule 1

Add:

#### 1139 Permanent Residence (Skilled Regional) (Class PR)

- (1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).
- (2) Visa application charge:
  - (a) first instalment (payable at the time the application is made):

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#### First instalment

Item	Component	Amount
1	Base application charge	\$385
2	Additional applicant charge for an applicant who is at least 18	\$195
3	Additional applicant charge for an applicant who is less than 18	\$100

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

- (a) 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).
- (b) An applicant may be in or outside Australia, but not in immigration clearance.
- (c) If an applicant is seeking to satisfy the primary criteria for the grant of a Subclass 191 (Permanent Residence (Skilled Regional)) visa, the applicant holds a regional provisional visa and has held that visa for at least 3 years.
- (d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Permanent Residence (Skilled Regional) (Class PR) visa must be made at the same time as, and combined with, the application by that person.

(4) Subclasses:

191 (Permanent Residence (Skilled Regional))

## **5 After Part 190 of Schedule 2**

Insert:

### **Subclass 191—Permanent Residence (Skilled Regional)**

#### **191.1—Interpretation**

##### **191.111**

In this Part:

**income year** has the meaning given by the *Income Tax Assessment Act 1997*.

**relevant income year**: an income year is a **relevant income year** for an applicant if:

- (a) the income year ended before the date of application; and
- (b) the applicant held a regional provisional visa for all or part of the income year.

**taxable income** has the meaning given by the *Income Tax Assessment Act 1997*.

Note: For **regional provisional visa**, see regulation 1.03.

#### **191.2—Primary criteria**

Note 1: The primary criteria for the grant of a Subclass 191 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

### 191.211

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) Each member of the family unit of the applicant who is an applicant for a Subclass 191 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021.
- (4) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 191 visa; and
  - (b) had turned 16 at the time of application;satisfies public interest criterion 4019.
- (5) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 191 visa; and
  - (b) has not turned 18;satisfies public interest criteria 4015 and 4016.
- (6) Each member of the family unit of the applicant who is not an applicant for a Subclass 191 visa:
  - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4007, unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

### 191.212

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 191 visa satisfies special return criteria 5001, 5002 and 5010.

### 191.213

- (1) The applicant complied substantially with the conditions (other than condition 8579) to which the following visas were subject:
  - (a) the regional provisional visa held by the applicant at the time of application;
  - (b) any subsequent bridging visa held by the applicant.
- (2) The applicant complied with condition 8579 to which the regional provisional visa held by the applicant at the time of application was subject unless the applicant is included in a class of persons specified in an instrument under subclause (3).
- (3) The Minister may, by legislative instrument, specify a class of persons for the purposes of subclause (2).

### **191.214**

- (1) The applicant has provided copies of notices of assessment, and any notices of amended assessments, given to the applicant under the *Income Tax Assessment Act 1936* in relation to 3 relevant income years for the applicant.
- (2) The applicant's taxable income for each of those relevant income years is at least equal to the amount specified in an instrument under subclause (3) in relation to the applicant.
- (3) The Minister may, by legislative instrument, specify an amount for the purposes of subclause (2) in relation to all applicants or different classes of applicants.
- (4) Subclause (1) is satisfied in relation to a copy of a notice even if the copy does not include the applicant's tax file number within the meaning of Part VA of the *Income Tax Assessment Act 1936*.

### **191.3—Secondary criteria**

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

#### **191.311**

The applicant:

- (a) is a member of the family unit of a person (the **visa holder**) who holds a Subclass 191 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
- (b) made a combined application with the visa holder.

#### **191.312**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021.
- (2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

#### **191.313**

The applicant satisfies special return criteria 5001, 5002 and 5010.

#### **191.314**

- (1) The applicant complied substantially with the conditions (other than condition 8579) to which the following visas were subject:
  - (a) any substantive visa held by the applicant at the time of application;
  - (b) any subsequent bridging visa held by the applicant.
- (2) If the applicant held a regional provisional visa at the time of application, the applicant complied with condition 8579 to which that visa was subject unless the

applicant is included in a class of persons specified in an instrument under subclause (3).

- (3) The Minister may, by legislative instrument, specify a class of persons for the purposes of subclause (2).

## **191.4—Circumstances applicable to grant**

### **191.411**

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

## **191.5—When visa is in effect**

### **191.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.