



Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 24 June 2021

David Hurley
Governor-General

By His Excellency's Command

Alex Hawke
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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1 Name

This instrument is the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2021.	1 July 2021

Note: This table relates only to the provisions of this instrument as originally made.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 following:

- (a) the *Australian Citizenship Act 2007*;
- (b) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Business Innovation and Investment Program

Migration Regulations 1994

1 Subregulation 1.11A(1)

Omit “132,”.

2 Paragraph 2.05(4AA)(b)

Repeal the paragraph.

3 Subparagraph 2.05(5A)(b)(ii)

Repeal the subparagraph.

4 Subregulation 2.06AAB(1) (table item 1)

Repeal the item.

5 Paragraphs 2.07AG(1)(b) and (2)(b)

Repeal the paragraphs.

6 Subregulations 5.19C(8A) and (8B)

Repeal the subregulations.

7 Subregulation 5.19E(3)

Omit “All”, substitute “If the applicant is invited to apply for the visa before 1 July 2021, all”.

8 At the end of subregulation 5.19E(3)

Add:

; (g) all of the funding provided or to be provided to the entrepreneurial entity under the agreement or agreements is unencumbered and lawfully acquired.

9 Subregulation 5.19E(4)

Repeal the subregulation.

10 Item 1104AA of Schedule 1

Repeal the item.

11 Subitem 1104BA(4) of Schedule 1 (before table item 1)

Insert:

1AA The applicant:

(a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream; and

(b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years

12 Subitem 1104BA(4) of Schedule 1 (table item 1)

Omit “the Business Innovation stream or”.

13 Subitem 1104BA(4) of Schedule 1 (table item 2)

Repeal the item, substitute:

- 2 The applicant:
- (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (a *secondary visa*) granted on the basis that the applicant was the spouse or de facto partner of a person (the *primary visa holder*) who held either:
 - (i) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream; or
 - (ii) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream; and
 - (b) unless the primary visa holder was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream held by the primary visa holder—has held a secondary visa for at least 3 years

14 Subitem 1104BA(4) of Schedule 1 (table item 3)

Repeal the item, substitute:

- 3 The applicant:
- (a) holds a Subclass 444 (Special Category) visa; and
 - (b) unless that visa was granted before 1 July 2021—has held that visa for at least 3 years

15 Subitem 1104BA(5) of Schedule 1 (table items 1 and 2)

Repeal the items, substitute:

- 1 The applicant:
- (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream; and
 - (b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years
-
- 2 The applicant:
- (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the *secondary visa*) granted on the basis that the applicant was the spouse or de facto partner of a person (the *primary visa holder*) who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the *primary visa*) in the Investor stream; and
 - (b) unless the primary visa holder was invited to apply for the primary visa before 1 July 2021—has held the secondary visa for at least 3 years

16 Subitem 1104BA(5A) of Schedule 1 (before table item 1)

Insert:

- 1A The applicant:
- (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; and
 - (b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years

17 Subitem 1104BA(5A) of Schedule 1 (table item 1)

Omit “the Significant Investor stream or”.

18 Subitem 1104BA(5A) of Schedule 1 (table item 2)

Repeal the item, substitute:

- 2 All of the following apply:
- (a) the applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (a *secondary visa*) granted on the basis that the applicant was the spouse or de facto partner of a person (the *primary visa holder*) who held either:
 - (i) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; or
 - (ii) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream;
 - (b) either:
 - (i) the applicant has ceased to be the spouse or de facto partner of the primary visa holder; or
 - (ii) the primary visa holder has since died;
 - (c) unless the primary visa holder was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream held by the primary visa holder—the applicant has held a secondary visa for at least 3 years

19 Paragraph 1104BA(5C)(a) of Schedule 1

Repeal the paragraph, substitute:

- (a) the applicant:
 - (i) must hold a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream; and
 - (ii) unless the applicant was invited to apply for that visa before 1 July 2021—must have held that visa for at least 3 years;

20 Subparagraph 1202B(2)(a)(ib) of Schedule 1

Repeal the subparagraph.

21 Subitem 1202B(6C) of Schedule 1

Repeal the subitem.

22 Part 132 of Schedule 2

Repeal the Part.

23 Clause 188.113 of Schedule 2 (paragraph (e) of note 2)

Repeal the paragraph.

24 Division 188.2 of Schedule 2 (note)

Omit “If an applicant applies for a Subclass 188 visa in the Premium Investor stream, the criteria in Subdivisions 188.21 and 188.27 are the primary criteria.”.

25 Subclause 188.225(1) of Schedule 2

Omit “of at least AUD500 000 in each of those years.”, substitute:

, in each of those years, of:

- (a) if the time of invitation was before 1 July 2021—at least AUD500,000; or
- (b) if the time of invitation was on or after 1 July 2021—at least AUD750,000.

26 Clause 188.226 of Schedule 2

Omit “net value of at least AUD800 000.”, substitute:

net value of:

- (a) if the time of invitation was before 1 July 2021—at least AUD800,000; or
- (b) if the time of invitation was on or after 1 July 2021—at least AUD1,250,000.

27 Clause 188.244 of Schedule 2

Before “For”, insert “(1)”.

28 Paragraph 188.244(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) subclause (2) applies.

29 At the end of clause 188.244 of Schedule 2

Add:

- (2) This subclause applies if:
 - (a) the applicant maintained direct involvement in managing eligible investments of the applicant, the applicant’s spouse or de facto partner, or the applicant and the applicant’s spouse or de facto partner together; and
 - (b) the total net value of the eligible investments was:
 - (i) if the time of invitation to apply for the visa was before 1 July 2021—at least AUD1,500,000; or
 - (ii) if the time of invitation to apply for the visa was on or after 1 July 2021—at least AUD2,500,000.

30 Clause 188.245 of Schedule 2

Omit “net value of at least AUD2 250 000.”, substitute:

net value of:

- (a) if the time of invitation was before 1 July 2021—at least AUD2,250,000; or
- (b) if the time of invitation was on or after 1 July 2021—at least AUD2,500,000.

31 Before subclause 188.246(1) of Schedule 2

Insert:

- (1A) If the time of invitation to apply for the visa was before 1 July 2021, the requirements in subclauses (1) and (2) are met.

32 After clause 188.246 of Schedule 2

Insert:

188.246A

- (1) If the time of invitation to apply for the visa was on or after 1 July 2021, the requirements in subclauses (2), (3) and (4) are met.
- (2) The applicant:

- (a) has made a complying significant investment of at least AUD2,500,000; and
 - (b) has a genuine intention to hold the complying significant investment for the whole of the visa period.
- (3) The funds used to make the complying significant investment mentioned in subclause (2) were accumulated from either or both of the following:
- (a) one or more qualifying businesses conducted by the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together;
 - (b) eligible investment activities of the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together.
- (4) The applicant has given the Minister:
- (a) evidence that the complying significant investment mentioned in subclause (2) complies with the requirements set out in regulation 5.19C as in force at the time of application; and
 - (b) a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

Note: Approved form 1412 is a deed of acknowledgement, undertaking and release, signed by each person mentioned in paragraph (b), under which they:

- (a) acknowledge that they are responsible for their financial and legal affairs; and
- (b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying significant investment; and
- (c) release the Commonwealth from any liabilities in relation to any loss relating to the complying significant investment.

33 Subclause 188.248(1) of Schedule 2

Omit “after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, matures.”, substitute:

after:

- (a) if subclause 188.246(1) applies to the applicant—the designated investment mentioned in that subclause matures; or
- (b) if subclause 188.246A(2) applies to the applicant—the complying significant investment mentioned in that subclause matures.

34 Subclause 188.248(2) of Schedule 2

Omit “he or she made the designated investment application”, substitute “the nominating State or Territory government agency is located”.

35 Subclause 188.252(2) of Schedule 2

Omit “The”, substitute “If the time of invitation to apply for the visa was before 1 July 2021, the”.

36 After subclause 188.252(2) of Schedule 2 (before the note)

Insert:

- (3) If the time of invitation to apply for the visa was on or after 1 July 2021, the applicant has a genuine intention to hold the complying significant investment for the whole of the visa period.

37 Paragraph 188.261(1B)(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) the applicant continues to hold a complying significant investment within the meaning of regulation 5.19C as in force at the time the application mentioned in paragraph (a) was made.

38 Subdivision 188.27 of Schedule 2

Repeal the Subdivision.

39 After paragraph 188.282(a) of Schedule 2

Insert:

- (ab) has a genuine intention to undertake, and continue to undertake, the complying entrepreneur activity in Australia; and

40 Paragraph 188.282(b) of Schedule 2

Before “has”, insert “if the time of invitation to apply for the visa was before 1 July 2021,”.

41 Paragraph 188.282(b) of Schedule 2

Omit “in Australia”.

42 Clause 188.311A of Schedule 2

Before “If”, insert “(1)”.

43 Paragraph 188.311A(b) of Schedule 2

After “visa in”, insert “the Investor stream,”.

44 At the end of clause 188.311A of Schedule 2

Add:

- (2) Subclause (1) does not apply if the primary applicant:
 - (a) holds a Subclass 188 visa in the Investor stream; and
 - (b) was invited to apply for that visa before 1 July 2021.

45 Clause 188.511 of Schedule 2

Omit “, the Premium Investor stream”.

46 Clause 188.511 of Schedule 2

Omit “in Australia for 4 years and 3 months from the date of grant.”, substitute:

in Australia:

- (a) if the time of invitation to apply for the visa was before 1 July 2021—for 4 years and 3 months from the date of grant; or
- (b) if the time of invitation to apply for the visa was on or after 1 July 2021—for 5 years from the date of grant.

47 Paragraph 188.512(a) of Schedule 2

Repeal the paragraph, substitute:

- (a) if:

- (i) the last Subclass 188 visa held by the applicant was a Subclass 188 visa in the Business Innovation stream; and
 - (ii) the time of the invitation to apply for that visa was before 1 July 2021; for 6 years after the date of the grant of that visa; or
- (ab) if:
- (i) the last Subclass 188 visa held by the applicant was a Subclass 188 visa in the Business Innovation stream; and
 - (ii) the time of the invitation to apply for that visa was on or after 1 July 2021; for 7 years after the date of the grant of that visa; or

48 Paragraphs 188.512A(a) and (b) of Schedule 2

Repeal the paragraphs, substitute:

- (a) if:
 - (i) the applicant held a Subclass 188 visa in the Significant Investor stream at the time of application; and
 - (ii) the time of the invitation to apply for that visa was before 1 July 2021; for 6 years after the date of the grant of that visa; or
- (b) if:
 - (i) the applicant held a Subclass 188 visa in the Significant Investor stream at the time of application; and
 - (ii) the time of the invitation to apply for that visa was on or after 1 July 2021; for 7 years after the date of the grant of that visa; or
- (c) if:
 - (i) the applicant held a Subclass 188 visa in the Significant Investor Extension stream at the time of application; and
 - (ii) the time of the invitation to apply for the Subclass 188 visa in the Significant Investor stream held by the applicant was before 1 July 2021; for 8 years after the date of the grant of the visa mentioned in subparagraph (ii); or
- (d) if:
 - (i) the applicant held a Subclass 188 visa in the Significant Investor Extension stream at the time of application; and
 - (ii) the time of the invitation to apply for the Subclass 188 visa in the Significant Investor stream held by the applicant was on or after 1 July 2021; for 9 years after the date of the grant of the visa mentioned in subparagraph (ii).

49 After clause 188.611 of Schedule 2

Insert:

188.611A

If a Subclass 188 visa in the Investor stream is granted to an applicant who was invited to apply for the visa on or after 1 July 2021, condition 8557 must be imposed.

50 Clause 188.612 of Schedule 2

Omit “, the Significant Investor Extension stream or the Premium Investor stream”, substitute “or the Significant Investor Extension stream”.

51 Subclause 888.221(1) of Schedule 2

Repeal the subclause, substitute:

- (1) The applicant has been in Australia, as the holder of one or more visas mentioned in the table in subitem 1104BA(4) of Schedule 1 (the *relevant table*):
 - (a) if the applicant is covered by any of subclauses (1A) to (1F)—for a total period of at least one year in the 2 years immediately before the application was made; or
 - (b) otherwise—for a total period of at least one year in the 3 years immediately before the application was made.
- (1A) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the visa mentioned in item 1AA of the relevant table; and
 - (b) the applicant was invited to apply for that visa before 1 July 2021.
- (1B) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the visa mentioned in item 1 of the relevant table; and
 - (b) the applicant was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream held by the applicant.
- (1C) The applicant is covered by this subclause if, at the time of application, the applicant met the requirements in item 1A of the relevant table.
- (1D) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the secondary visa mentioned in item 2 of the relevant table; and
 - (b) the primary visa holder mentioned in that item was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream held by the primary visa holder.
- (1E) The applicant is covered by this subclause if, at the time of application, the applicant met the requirements in item 2A of the relevant table.
- (1F) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the visa mentioned in item 3 or 4 of the relevant table; and
 - (b) if the applicant held the visa mentioned in item 3 of the relevant table—the visa was granted before 1 July 2021.

52 Paragraph 888.221(2)(b) of Schedule 2

Omit “item 1 or 2”, substitute “item 1AA, 1 or 2”.

53 Subclause 888.231(1) of Schedule 2

Repeal the subclause, substitute:

- (1) The applicant has been in Australia, as the holder of a visa mentioned in the table in subitem 1104BA(5) of Schedule 1 (the *relevant table*):
 - (a) if the applicant is covered by any of subclauses (1A) to (1C)—for a total period of at least 2 years in the 4 years immediately before the application was made; or
 - (b) otherwise—for a total period of at least 2 years in the 3 years immediately before the application was made.
- (1A) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the visa mentioned in item 1 of the relevant table; and
 - (b) the applicant was invited to apply for that visa before 1 July 2021.
- (1B) The applicant is covered by this subclause if:
 - (a) at the time of application, the applicant held the secondary visa mentioned in item 2 of the relevant table; and
 - (b) the primary visa holder mentioned in that item was invited to apply for the primary visa mentioned in that item before 1 July 2021.
- (1C) The applicant is covered by this subclause if, at the time of application, the applicant met the requirements in item 3 or 4 of the relevant table.

54 Clause 888.232 of Schedule 2

Omit “Either”, substitute “If the applicant is covered by any of subclauses 888.231(1A) to (1C), either”.

55 At the end of Division 888.23 of Schedule 2

Add:

888.233

Unless the applicant is covered by any of subclauses 888.231(1A) to (1C), the applicant has held a complying significant investment for the whole of the period during which the applicant held a Subclass 188 visa.

56 Subclause 888.241(1) of Schedule 2

Omit “At”, substitute “If the applicant is covered by any of subclauses (1A) to (1D), at”.

57 After subclause 888.241(1) of Schedule 2

Insert:

- (1AA) If, at the time of application, the applicant met the requirements in item 2 or 4 of the table in subitem 1104BA(5A) of Schedule 1 (the *relevant table*), a reference in subclause (1), (2A) or (2B) to a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream or the Significant Investor Extension stream is taken to be a reference to a Subclass 188 (Business Innovation and Investment (Provisional)) visa granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream or the Significant Investor Extension stream.

- (1A) The applicant is covered by this subclause if:
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- (a) at the time of application, the applicant held the visa mentioned in item 1A of the relevant table; and
 - (b) the applicant was invited to apply for that visa before 1 July 2021.
- (1B) The applicant is covered by this subclause if:
- (a) at the time of application, the applicant held the visa mentioned in item 1 of the relevant table; and
 - (b) the applicant was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream held by the applicant.
- (1C) The applicant is covered by this subclause if:
- (a) at the time of application, the applicant held the secondary visa mentioned in item 2 of the relevant table; and
 - (b) the primary visa holder mentioned in that item was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream held by the primary visa holder.
- (1D) The applicant is covered by this subclause if, at the time of application, the applicant met the requirements in item 3 or 4 of the relevant table.

58 Subclause 888.241(2) of Schedule 2

Omit “, (2B) or (2C)”, substitute “or (2B)”.

59 Paragraph 888.241(2B)(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) the applicant has held a complying significant investment (within the meaning of regulation 5.19C as in force at the time the application mentioned in paragraph (a) was made) for:
 - (i) if the applicant is covered by any of subclauses (1A) to (1D)—the whole of the period during which the applicant has held the visas or visa mentioned in subclause (1); or
 - (ii) otherwise—the whole of the period during which the applicant has held the visa on the basis of which the applicant met the requirements in an item of the relevant table.

60 Subclause 888.241(2C) of Schedule 2

Repeal the subclause.

61 Paragraph 888.241(4)(b) of Schedule 2

Omit “or (2C)”.

62 Paragraphs 888.261(1)(a) and (b) of Schedule 2

Repeal the paragraphs, substitute:

- (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream and has done so for a continuous period of at least:
 - (i) if the applicant was invited to apply for that visa before 1 July 2021—4 years; or
 - (ii) otherwise—3 years; and

- (b) either:
- (i) if the applicant was invited to apply for that visa before 1 July 2021—has resided in Australia for at least 2 years of the 4 years mentioned in subparagraph (a)(i); or
 - (ii) otherwise—has resided in Australia for at least 2 years while holding a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream.

63 At the end of subclause 888.261(3) of Schedule 2

Add:

- ; (d) any endorsement of the applicant’s record by a body recognised by the nominating State or Territory government agency as a start-up incubator, start-up accelerator or other body that assists start-up businesses.

64 Parts 7A.6 to 7A.8 of Schedule 7A

Repeal the Parts, substitute:

Part 7A.6—Investor experience qualifications—Investor stream only

Item	The applicant ...	Number of points
7A61	(a) if the applicant was invited to apply for the visa before 1 July 2021—held eligible investments which had a value of not less than AUD100,000 for not less than 4 years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—held eligible investments which had a value of not less than AUD250,000 for not less than 4 years immediately before the time of invitation	10
7A62	(a) if the applicant was invited to apply for the visa before 1 July 2021—held eligible investments which had a value of not less than AUD100,000 for not less than 7 years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—held eligible investments which had a value of not less than AUD250,000 for not less than 7 years immediately before the time of invitation	15

Note: Points are accumulated under item 7A61 or 7A62, not both.

Part 7A.7—Financial asset qualifications

Item	The net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together, was ...	Number of points
7A71	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD800,000 in each of the 2 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD1,250,000 in each of the 2 fiscal years immediately before the time of invitation	5
7A72	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD1,300,000 in each of the 2 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD1,750,000 in each of the 2 fiscal years immediately before the time of invitation	15
7A73	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD1,800,000 in each of the 2 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD2,250,000 in each of the 2 fiscal years immediately before the time of invitation	25
7A74	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD2,250,000 in each of the 2 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD2,750,000 in each of the 2 fiscal years immediately before the time of invitation	35

Note: Points are accumulated under one item in Part 7A.7, not more than one.

Part 7A.8—Business turnover qualifications

Item	The applicant had an ownership interest in one or more main businesses that had an annual turnover of ...	Number of points
7A81	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD500,000 in at least 2 of the 4 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD750,000 in at least 2 of the 4 fiscal years immediately before the time of invitation	5
7A82	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD1,000,000 in at least 2 of the 4 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD1,250,000 in at least 2 of the 4 fiscal years immediately before the time of invitation	15

Schedule 1 Business Innovation and Investment Program

Item	The applicant had an ownership interest in one or more main businesses that had an annual turnover of ...	Number of points
7A83	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD1,500,000 in at least 2 of the 4 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD1,750,000 in at least 2 of the 4 fiscal years immediately before the time of invitation	25
7A84	(a) if the applicant was invited to apply for the visa before 1 July 2021— not less than AUD2,000,000 in at least 2 of the 4 fiscal years immediately before the time of invitation; or (b) if the applicant was invited to apply for the visa on or after 1 July 2021—not less than AUD2,250,000 in at least 2 of the 4 fiscal years immediately before the time of invitation	35

Note: Points are accumulated under one item in Part 7A.8, not more than one.

Schedule 2—Working holiday maker visas

Migration Regulations 1994

1 Regulation 1.03

Insert:

COVID-19 affected visa means:

- (a) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, covered by subregulation 1.15P(1); or
- (b) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, of a kind specified for the purposes of this definition by the Minister under subregulation 1.15P(2).

2 At the end of Division 1.2 of Part 1

Add:

1.15P COVID-19 affected visas

- (1) A Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa (the **covered visa**) is covered by this subregulation if:
 - (a) the covered visa is granted to a person before 20 March 2020; and
 - (b) the covered visa is in effect on 20 March 2020; and
 - (c) between 1 July 2021 and 31 December 2022, the person applies for a Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa; and
 - (d) the person is outside Australia when the application is made; and
 - (e) if the covered visa is in effect when the application is made—the covered visa did not, when granted, permit the person to travel to, enter or remain in Australia after 31 December 2021; and
 - (f) if the covered visa is not in effect when the application is made:
 - (i) the covered visa ceased to be in effect on or before 31 December 2021; and
 - (ii) the person was outside Australia when the covered visa ceased to be in effect; and
 - (iii) if the covered visa was cancelled—it was cancelled on the ground specified in paragraph 2.43(1)(g).
- (2) The Minister may, by legislative instrument, specify kinds of Subclass 417 (Working Holiday) visas and Subclass 462 (Work and Holiday) visas for the purposes of the definition of **COVID-19 affected visa** in regulation 1.03.
- (3) Without limiting subregulation (2), a legislative instrument under that subregulation may specify a kind of Subclass 417 (Working Holiday) visa or Subclass 462 (Work and Holiday) visa by reference to circumstances relating to a person who holds or held the visa.

3 Paragraph 1224A(2)(a) of Schedule 1

Repeal the paragraph, substitute:

- (a) the base application charge (payable at the time the application is made) is:

- (i) for an applicant in a class of persons specified in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5)—nil; or
- (ii) in any other case—\$495; and

4 At the end of subitem 1224A(3) of Schedule 1

Add:

- (d) A reference in paragraph (b) or (c) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

5 Paragraph 1225(2)(a) of Schedule 1

Repeal the paragraph, substitute:

- (a) the base application charge (payable at the time the application is made) is:
 - (i) for an applicant in a class of persons specified in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5)—nil; or
 - (ii) in any other case—\$495; and

6 After subitem 1225(3B) of Schedule 1

Insert:

- (3BA) A reference in subitem (3A) or (3B) to a Subclass 417 (Working Holiday) visa does not include a reference to a COVID-19 affected visa.

7 At the end of clause 417.211 of Schedule 2

Add:

- (7) A reference in subclause (5) or (6) to a Subclass 417 visa does not include a reference to a COVID-19 affected visa.

8 Clause 417.222 of Schedule 2

Before “If”, insert “(1)”.

9 Paragraph 417.222(b) of Schedule 2

Omit “(Working Holiday)” (wherever occurring).

10 At the end of clause 417.222 of Schedule 2

Add:

- (2) A reference in subclause (1) to a Subclass 417 visa does not include a reference to a COVID-19 affected visa.

11 Paragraph 462.211(a) of Schedule 2

After “Subclass 462 visa”, insert “other than a COVID-19 affected visa”.

12 Paragraph 462.211A(a) of Schedule 2

After “Subclass 462 (Work and Holiday) visa”, insert “other than a COVID-19 affected visa”.

13 Clause 462.211B of Schedule 2

After “Subclass 462 (Work and Holiday) visa”, insert “other than a COVID-19 affected visa”.

14 Clause 462.218 of Schedule 2

Before “If”, insert “(1)”.

15 At the end of clause 462.218 of Schedule 2

Add:

- (2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

16 Clause 462.219 of Schedule 2

Before “If”, insert “(1)”.

17 At the end of clause 462.219 of Schedule 2

Add:

- (2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

18 Clauses 462.221 and 462.221A of Schedule 2

After “Subclass 462 (Work and Holiday) visa”, insert “other than a COVID-19 affected visa”.

19 Clause 462.224 of Schedule 2

Before “If”, insert “(1)”.

20 At the end of clause 462.224 of Schedule 2

Add:

- (2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

Schedule 3—Bridging visa amendments

Migration Regulations 1994

1 Paragraph 2.25(2)(a)

Repeal the paragraph, substitute:

- (a) the non-citizen satisfies the criteria set out in clauses 050.211, 050.212, 050.222, 050.223, 050.224 and 050.411 of Schedule 2; or

2 Subregulation 2.25(3)

Repeal the subregulation.

3 Subclause 050.222(1) of Schedule 2

Omit “or (4)”, insert “, (4) or (5)”.

4 At the end of clause 050.222 of Schedule 2

Add:

- (5) This subclause applies if an officer who is authorised by the Secretary for the purposes of this clause has decided that it is not necessary to interview the applicant.

5 Clause 8401 of Schedule 8

Repeal the clause, substitute:

- 8401 The holder must report:
- (a) at the time or times; and
 - (b) at a place or in a manner;
- specified by the Minister from time to time.

Schedule 4—Manner of reporting on arriving overseas passengers and crew members

Migration Regulations 1994

1 After subregulation 3.14(1)

Insert:

- (1A) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

2 Subregulation 3.15(1)

Omit “a list is”, substitute “particulars are”.

3 Subregulation 3.15(4)

Repeal the subregulation, substitute:

- (4) The master must, if asked to do so by the officer, give the officer a specified number (not exceeding 6) of copies of the certificate.

4 Before subregulation 3.17(1)

Insert:

Members of crew

5 Paragraph 3.17(1)(a)

Omit “give the officer a list showing the number of members of the crew and showing,”, substitute “notify the officer of the number of members of the crew and give the officer the following particulars”.

6 Subparagraphs 3.17(1)(a)(i), (ii) and (iii)

Omit “and”.

7 After subregulation 3.17(1)

Insert:

- (1A) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

Persons other than passengers and crew for discharge outside Australia

8 Subregulation 3.17(2)

Omit “a list signed by the master showing”, substitute “particulars of”.

9 At the end of regulation 3.17

Add:

- (3) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

Schedule 5—Changes to citizenship fees

Australian Citizenship Regulation 2016

1 Section 5

Repeal the following definitions:

- (a) definition of *Human Services Department*;
- (b) definition of *Veterans' Affairs Department*.

2 Subsection 17(4)

Omit "\$20", substitute "\$35".

3 Subsection 17(5)

Omit "\$20" (wherever occurring), substitute "\$35".

4 Subsection 17(6)

Omit "\$105", substitute "\$190".

5 Subsection 17(7)

Omit "\$105" (wherever occurring), substitute "\$190".

6 Schedule 3 (table item 1)

Omit "\$230", substitute "\$315".

7 Schedule 3 (table item 1)

Omit "\$95", substitute "\$130".

8 Schedule 3 (table item 2)

Omit "\$230", substitute "\$315".

9 Schedule 3 (table item 3)

Omit "\$230", substitute "\$315".

10 Schedule 3 (table item 3)

Omit "\$95", substitute "\$130".

11 Schedule 3 (table item 4)

Omit "\$230", substitute "\$315".

12 Schedule 3 (items 10, 11, 12 and 13)

Repeal the items, substitute:

- | | | |
|----|---|------|
| 10 | An application under section 21 of the Act, other than an application mentioned in items 5 to 9 or item 15, if: | \$35 |
| | (a) the applicant does not claim eligibility on the basis of the criteria in subsection 21(2) of the Act; and | |
| | (b) the applicant: | |
| | (i) holds a pensioner concession card issued by the Commonwealth; or | |
-

(ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person

- 13 An application under section 21 of the Act, other than an application mentioned in items 5 to 9 or item 15, if: \$70
- (a) the applicant claims eligibility on the basis of the criteria in subsection 21(2) of the Act; and
- (b) the applicant:
- (i) holds a pensioner concession card issued by the Commonwealth; or
- (ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person

13 Schedule 3 (table item 14)

Omit "\$285", substitute "\$490".

14 Schedule 3 (table item 16)

Omit "\$180", substitute "\$300".

15 Schedule 3 (table item 17, column 1, paragraph (d))

Repeal the paragraph, substitute:

- (d) the applicant:
- (i) holds a pensioner concession card issued by the Commonwealth; or
- (ii) is under the age of 18 and is listed as a dependant on a pensioner concession card issued by the Commonwealth held by another person

16 Schedule 3 (table item 17)

Omit "\$20", substitute "\$35".

17 Schedule 3 (table item 18)

Omit "\$180", substitute "\$300".

18 Schedule 3 (table item 21)

Omit "\$205", substitute "\$265".

19 Schedule 3 (after table item 21)

Insert:

- 21A An application under section 37 of the Act that is made at the same time and on the same form as an application under section 16 or 19C of the Act Nil

20 Schedule 3 (table item 24)

Before "22", insert "21A,".

21 Schedule 3 (table item 24)

Omit "\$190", substitute "\$240".

Schedule 6—Payment of citizenship fees in foreign currencies

Australian Citizenship Regulation 2016

1 Subsection 16(7)

Repeal the subsection, substitute:

(7) In this section:

conversion instrument means the *Migration (Payment of Visa Application Charges and Fees in Foreign Currencies) Instrument (LIN 21/003) 2021 (No. 2)* as in force on 1 July 2021.

places and currencies instrument means the *Migration (Places and Currencies for Paying of Fees) Instrument (LIN 21/004) 2021 (No. 2)* as in force on 1 July 2021.

Schedule 7—Application, saving and transitional provisions

Australian Citizenship Regulation 2016

1 In the appropriate position in Part 4

Insert:

28 Application of amendments made by Schedules 5 and 6 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021*

The amendments of sections 16 and 17 and Schedule 3 made by Schedules 5 and 6 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021* apply in relation to an application under a provision of the Act made on or after 1 July 2021.

29 Fee for applications for evidence of citizenship where certain applications for citizenship approved after 1 July 2021

- (1) For the purposes of paragraph 46(1)(d) of the Act, the fee to accompany an application (the ***evidence application***) under section 37 of the Act is nil if:
 - (a) the applicant made an application under section 16 or 19C of the Act before 1 July 2021; and
 - (b) the Minister approves the applicant becoming an Australian citizen on or after 1 July 2021; and
 - (c) the evidence application is made within the period:
 - (i) starting on 1 July 2021; and
 - (ii) ending 6 months after the day on which the Minister approves the applicant becoming an Australian citizen.
- (2) Section 16 does not apply to the evidence application.

Migration Regulations 1994

2 In the appropriate position in Schedule 13

Insert:

Part 99—Amendments made by the Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021

9901 Operation of Schedule 1 (Business Innovation and Investment Program)

The amendments of these Regulations made by Schedule 1 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021* apply in relation to an application for a visa made on or after 1 July 2021.

9902 Operation of Schedule 2 (working holiday maker visas)

The amendments of these Regulations made by Schedule 2 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021* apply in relation to an application for a visa made on or after 1 July 2021.

9903 Operation of Schedule 3 (bridging visa amendments)

- (1) The amendments of these Regulations made by items 1 to 4 of Schedule 3 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021* apply in relation to a Bridging E (Class WE) visa:
 - (a) granted as a result of an application for the visa made on or after 1 July 2021; or
 - (b) granted by the Minister under regulation 2.25 on or after 1 July 2021.
- (2) The amendment of these Regulations made by item 5 of Schedule 3 to the *Home Affairs Legislation Amendment (2021 Measures No. 1) Regulations 2021* applies in relation to a visa granted on or after 1 July 2021.