



Migration Amendment (Subclass 417 and 462 Visas) 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 23 July 2021

David Hurley
Governor-General

By His Excellency's Command

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

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
	Schedule 1—Amendments	2
	<i>Migration Regulations 1994</i>	2

1 Name

This instrument is the *Migration Amendment (Subclass 417 and 462 Visas) 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	The day after this instrument is registered.	28 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Note: This table relates only to the provisions of this instrument as originally made.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 *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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Migration Regulations 1994

1 Regulation 1.03

Insert:

carried out for an excluded employer: see subregulation 1.15FB(1).

2 After regulation 1.15FA

Insert:

1.15FB Work carried out for an excluded employer

- (1) Work was *carried out for an excluded employer* if it was done:
 - (a) for, or for the benefit of, a person, partnership or unincorporated association that was, at the time the work was done, specified in an instrument made under subregulation (2); and
 - (b) as an employee or contractor of:
 - (i) the person, partnership or unincorporated association; or
 - (ii) a contractor or subcontractor of the person, partnership or unincorporated association.
- (2) The Minister may, by legislative instrument, specify a person, partnership or unincorporated association (the *employer*) if the Minister is satisfied that:
 - (a) the employer may pose a risk to the safety or welfare of a person performing work in the employment, or under the supervision, of the employer; or
 - (b) the performance of work in the employment, or under the supervision, of the employer may pose a risk to the safety or welfare of a person.
- (3) Without limiting subregulation (2), the Minister may specify a person, partnership or unincorporated association using any or all of the following information:
 - (a) the name of the person, partnership or unincorporated association;
 - (b) the ABN (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*) of the person, partnership or unincorporated association;
 - (c) any other information that identifies the person, partnership or unincorporated association.

Note: This regulation constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws (including the common law).

3 At the end of subclause 417.211(5) of Schedule 2

Add:

; and (d) the work was not carried out for an excluded employer.

4 At the end of subclause 417.211(6) of Schedule 2

Add:

; and (f) that work was not carried out for an excluded employer.

5 At the end of subclause 462.218(1) of Schedule 2

Add:

; and (d) the work was not carried out for an excluded employer.

6 At the end of subclause 462.219(1) of Schedule 2

Add:

; and (f) that work was not carried out for an excluded employer.

7 In the appropriate position in Schedule 13

Insert:

**Part 97—Amendments made by the Migration Amendment
(Subclass 417 and 462 Visas) Regulations 2021**

9701 Application of amendments

- (1) The amendments made by Schedule 1 to the *Migration Amendment (Subclass 417 and 462 Visas) Regulations 2021* (the **amending Schedule**) apply in relation to any visa application made after the commencement of the amending Schedule.
- (2) However, to the extent that the application relates to work carried out before that commencement, paragraphs 417.211(5)(d), 417.211(6)(f), 462.218(1)(d) and 462.219(1)(f) of Schedule 2 to these Regulations (as inserted by the amending Schedule) do not apply in relation to that work.