

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

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Note: This table relates only to the provisions of this instrument as originally made.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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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