



Migration Amendment (Location Requirements for Grant of Visa) Regulations 2023

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 November 2023

David Hurley
Governor-General

By His Excellency's Command

Andrew Giles
Minister for Immigration, Citizenship and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Location Requirements for Grant of Visa) Regulations 2023*.

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.	25 November 2023

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Paragraph 4.02(4)(s)

Repeal the paragraph, substitute:

- (s) a decision made after 26 February 2021 to refuse to grant a Subclass 300 (Prospective Marriage) visa, if the visa was applied for before the end of the concession period described in subregulation 1.15N(1) by an applicant who:
 - (i) was outside Australia when the application was made; and
 - (ii) was in Australia at any time during that concession period; and
 - (iii) was in Australia on the day the decision was made;
- (saa) a decision to refuse to grant a Subclass 309 (Partner (Provisional)) visa;

2 Paragraph 4.02(5)(r)

Repeal the paragraph, substitute:

- (r) in the case of a decision to which paragraph (4)(s) applies—the sponsor;
- (raa) in the case of a decision to which paragraph (4)(saa) applies—the applicant;

3 Paragraph 100.221(4B)(a) of Schedule 2

Repeal the paragraph, substitute:

- (a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa and was in Australia, but not in immigration clearance, when that visa was granted; and

4 Paragraph 100.221(4C)(a) of Schedule 2

Repeal the paragraph, substitute:

- (a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa and was in Australia, but not in immigration clearance, when that visa was granted; and

5 Paragraph 309.221(1)(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) if the applicant is in Australia—the applicant meets the requirements of subclause (2) or (3) of this clause.

6 Clause 309.412 of Schedule 2

Repeal the clause, substitute:

309.412

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

7 Clause 485.411 of Schedule 2

Repeal the clause, substitute:

485.411

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

8 Clause 820.411 of Schedule 2

Repeal the clause, substitute:

820.411

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

9 In the appropriate position in Schedule 13

Insert:

**Part 124—Amendments made by the Migration Amendment
(Location Requirements for Grant of Visa)
Regulations 2023****12401 Definitions**

In this Part:

amending regulations means the Migration Amendment (*Location Requirements for Grant of Visa*) Regulations 2023.

12402 Operation of Schedule 1

- (1) The amendments of these Regulations made by items 1 and 2 of Schedule 1 to the amending regulations apply in relation to a decision to refuse to grant a Subclass 300 (Prospective Marriage) visa or a Subclass 309 (Partner (Provisional)) visa made on or after the commencement of those items, whether the visa application was made before, on or after that commencement.
- (2) The amendments of these Regulations made by items 3 to 8 of Schedule 1 to the amending regulations apply in relation to a visa granted on or after the commencement of those items, whether the visa application was made before, on or after that commencement.