

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

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Amendments 2

Migration Regulations 1994 2

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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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