



Migration Amendment (Family Violence Provisions for Partner Visa Applicants) Regulations 2024

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 20 June 2024

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 (Family Violence Provisions for Partner Visa Applicants) Regulations 2024*.

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 2024.	1 July 2024

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments relating to partner relationships

Migration Regulations 1994

1 Clause 100.111 of Schedule 2 (paragraph (a) of the definition of sponsoring partner)

Omit “(4A)(a), (4B)(a) or (4C)(a)”, substitute “(4AA)(a) or (4A)(a)”.

2 Subclause 100.221(1) of Schedule 2

Omit “(4A), (4B) or (4C)”, substitute “(4AA) or (4A)”.

3 Subclauses 100.221(3) and (4) of Schedule 2

Repeal the subclauses, substitute:

- (3) The applicant meets the requirements of this subclause if the applicant:
 - (a) is the holder of a Subclass 309 (Partner (Provisional)) visa; and
 - (b) would meet the requirements of subclause (2) or (2A) except that the sponsoring partner died; and
 - (c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa; and
 - (b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (c) the applicant has entered Australia after making the application; and
 - (d) either or both of the following has experienced family violence committed by the sponsoring partner:
 - (i) the applicant;
 - (ii) a member of the family unit of the sponsoring partner or of the applicant or of both of them.

Note: For special provisions relating to family violence, see Division 1.5.

- (4AA) The applicant meets the requirements of this subclause if the applicant:
 - (a) is the holder of a Subclass 309 (Partner (Provisional)) visa; and
 - (b) would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (c) has:
 - (i) custody or joint custody of, or access to; or
 - (ii) a residence order or contact order made under the *Family Law Act 1975* relating to; at least one child in respect of whom the sponsoring partner:
 - (iii) has been granted joint custody or access by a court; or

- (iv) has a residence order or contact order made under the *Family Law Act 1975*; or
- (v) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

4 Subclauses 100.221(4B) and (4C) of Schedule 2

Repeal the subclauses.

5 Paragraph 100.221(7)(b) of Schedule 2

Omit “(4), (4B) or (4C)”, substitute “(4) or (4AA)”.

6 Paragraph 100.226(b) of Schedule 2

Omit “(4), (4B) or (4C)”, substitute “(4) or (4AA)”.

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

Omit “if the applicant is in Australia—”.

8 Subparagraph 309.221(3)(b)(i) of Schedule 2

Repeal the subparagraph, substitute:

- (i) the applicant has entered Australia after making the application and either or both of the following has experienced family violence committed by the sponsoring partner:
 - (A) the applicant;
 - (B) a member of the family unit of the sponsoring partner or of the applicant or of both of them;

9 At the end of clause 309.222 of Schedule 2

Add:

- (4) This clause does not apply in relation to an applicant who meets the requirements of subclause 309.221(2) or (3).

10 Clause 309.322 of Schedule 2

Before “The”, insert “(1)”.

11 At the end of clause 309.322 of Schedule 2

Add:

- (2) Subclause (1) does not apply in relation to an applicant if:
 - (a) the applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 309 (Partner (Provisional)) visa; and
 - (b) clause 309.222 did not apply in relation to that person.

Part 2—Amendments relating to prospective partners

Migration Regulations 1994

12 Subregulation 1.23(1) (note)

After “partner of”, insert “, or the prospective spouse of,”.

13 Subregulation 1.23(5)

Omit all the words after “must have”, substitute:

occurred while:

- (a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or
- (b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

14 Subregulation 1.23(7)

Omit all the words after “must have”, substitute:

occurred while:

- (a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or
- (b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

15 Subparagraph 1.23(9)(b)(i)

After “partner of”, insert “, or a prospective spouse of,”.

16 Sub-subparagraph 1.23(9)(b)(ii)(B)

After “partner of”, insert “, or the prospective spouse of,”.

17 Sub-subparagraph 1.23(9)(b)(ii)(C)

Omit “his or her spouse or de facto partner”, substitute “the spouse or de facto partner of, or the prospective spouse of, the alleged perpetrator”.

18 Subparagraph 1.23(9)(b)(iii)

Repeal the subparagraph, substitute:

- (iii) a member of the family unit of a spouse or de facto partner of, or a prospective spouse of, the alleged perpetrator who has made a combined application for a visa with the spouse, de facto partner or prospective spouse (as the case may be); and

19 Subregulation 1.23(12)

Omit all the words after “part of the relevant family violence,”, substitute:

occurred while:

- (a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or

- (b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

20 Subregulation 1.23(14)

Omit all the words after “must have”, substitute:

occurred while:

- (a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or
- (b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

21 Subregulation 1.25(1)

After “partner of”, insert “, or the prospective spouse of”.

22 Subregulations 1.25(2) and (3)

Omit “subregulation 1.25(1)”, substitute “subregulation (1)”.

23 Paragraph 4.02(4)(s)

Repeal the paragraph, substitute:

- (s) a decision to refuse to grant a Subclass 300 (Prospective Marriage) visa;

24 After subparagraph 1124B(2)(a)(v) of Schedule 1

Insert:

- (va) for an applicant:
 - (A) who is covered by subitem (2A); or
 - (B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	Component	Amount
1	Base application charge	\$1 515
2	Additional applicant charge for an applicant who is at least 18	\$760
3	Additional applicant charge for an applicant who is less than 18	\$380

25 After subparagraph 1124B(2)(a)(vi) of Schedule 1

Insert:

- (via) for an applicant:
 - (A) who is covered by subitem (2B); or
 - (B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	Component	Amount
1	Base application charge	\$1 920
2	Additional applicant charge for an applicant who is at least 18	\$960

First instalment		
Item	Component	Amount
3	Additional applicant charge for an applicant who is less than 18	\$485

26 After subitem 1124B(2) of Schedule 1

Insert:

- (2A) An applicant is covered by this subitem if the applicant:
- (a) is the holder of a Prospective Marriage (Temporary) (Class TO) visa; and
 - (b) seeks to satisfy the primary criteria set out in subclause 801.221(6AA) of Schedule 2.
- (2B) An applicant is covered by this subitem if the applicant:
- (a) is not the holder of a substantive visa; and
 - (b) entered Australia as the holder of a Prospective Marriage (Temporary) (Class TO) visa; and
 - (c) seeks to satisfy the primary criteria set out in subclause 801.221(6AB) of Schedule 2.

27 Clause 300.412 of Schedule 2

Repeal the clause, substitute:

300.412

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

28 Subclause 801.221(1) of Schedule 2

After “(6)”, insert “, (6AA), (6AB)”.

29 Paragraph 801.221(5)(c) of Schedule 2

Omit “died; and”, substitute “died.”.

30 Paragraph 801.221(5)(d) of Schedule 2

Repeal the paragraph.

31 Subparagraph 801.221(6)(c)(i) of Schedule 2

Omit “suffered”, substitute “experienced”.

32 After subclause 801.221(6) of Schedule 2

Insert:

- (6AA) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant continued to meet the requirements of subclause 820.211(7) or (8).
- (6AB) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant continued to meet the requirements of subclause 820.211(9).

33 Paragraph 820.211(7)(b) of Schedule 2

Repeal the paragraph.

34 Paragraphs 820.211(7)(d) and (e) of Schedule 2

Repeal the paragraphs, substitute:

- (d) the applicant satisfies the Minister that the applicant would have continued to be the spouse or prospective spouse of the sponsoring partner if the sponsoring partner had not died.

35 Paragraph 820.211(8)(b) of Schedule 2

Repeal the paragraph.

36 Paragraph 820.211(8)(d) of Schedule 2

Repeal the paragraph, substitute:

- (d) either or both of the following circumstances applies:
 - (i) any one or more of the following:
 - (A) the applicant;
 - (B) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (C) a dependent child of the sponsoring partner or of the applicant or of both of them;has experienced family violence committed by the sponsoring partner;
 - (ii) the applicant:
 - (A) has custody or joint custody of, or access to; or
 - (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;
at least one child in respect of whom the sponsoring partner:
 - (C) has been granted joint custody or access by a court; or
 - (D) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note: For special provisions relating to family violence, see Division 1.5.

37 Paragraph 820.211(9)(c) of Schedule 2

Repeal the paragraph.

38 Paragraph 820.211(9)(e) of Schedule 2

Repeal the paragraph, substitute:

- (e) either or both of the following circumstances applies:
 - (i) any one or more of the following:
 - (A) the applicant;
 - (B) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (C) a dependent child of the sponsoring partner or of the applicant or of both of them;has experienced family violence committed by the sponsoring partner;

(ii) the applicant:

- (A) has custody or joint custody of, or access to; or
- (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;

at least one child in respect of whom the sponsoring partner:

- (C) has been granted joint custody or access by a court; or
- (D) has a residence order or contact order made under the *Family Law Act 1975*; or
- (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note: For special provisions relating to family violence, see Division 1.5.

39 Paragraph 820.221(2)(b) of Schedule 2

Omit “died; and”, substitute “died.”.

40 Paragraph 820.221(2)(c) of Schedule 2

Repeal the paragraph.

41 Subparagraph 820.221(3)(b)(i) of Schedule 2

Omit “suffered”, substitute “experienced”.

Part 3—Amendments to update language relating to family violence

Migration Regulations 1994

42 Subparagraph 1.20J(1)(a)(ii)

Omit “suffered”, substitute “experienced”.

43 Regulation 1.22 (heading)

Omit “suffered”, substitute “experienced”.

44 Subregulation 1.22(1)

Omit “suffered” (wherever occurring), substitute “experienced”.

45 Regulation 1.23 (heading)

Omit “suffered”, substitute “experienced”.

46 Paragraph 1.23(1)(a)

Omit “suffered”, substitute “experienced”.

47 Subregulation 1.23(1) (note)

Omit “suffered” (wherever occurring), substitute “experienced”.

48 Subregulation 1.23(2) (heading)

Omit “*suffered*”, substitute “*experienced*”.

49 Subregulation 1.23(2)

Omit “suffered”, substitute “experienced”.

50 Subregulation 1.23(4) (heading)

Omit “*suffered*”, substitute “*experienced*”.

51 Subregulation 1.23(4)

Omit “suffered”, substitute “experienced”.

52 Subregulation 1.23(6) (heading)

Omit “*suffered*”, substitute “*experienced*”.

53 Subregulation 1.23(6)

Omit “suffered”, substitute “experienced”.

54 Subregulation 1.23(8) (heading)

Omit “*suffered*”, substitute “*experienced*”.

55 Paragraphs 1.23(8)(a) and (9)(a)

Omit “suffered”, substitute “experienced”.

56 Subparagraph 1.23(9)(c)(i)

Omit “suffered”, substitute “experienced”.

57 Subregulations 1.23(10) and (11)

Omit “suffered” (wherever occurring), substitute “experienced”.

58 Subregulations 1.23(13) and (14)

Omit “suffered” (wherever occurring), substitute “experienced”.

59 Paragraph 858.321(3)(c) of Schedule 2

Omit “suffered”, substitute “experienced”.

Part 4—Application and transitional provisions

Migration Regulations 1994

60 In the appropriate position in Schedule 13

Insert:

Part 137—Amendments made by the Migration Amendment (Family Violence Provisions for Partner Visa Applicants) Regulations 2024

13701 Operation of amendments

- (1) The amendments of regulations 1.23 and 1.25 of, and of Schedule 2 to, these Regulations made by Schedule 1 to the *Migration Amendment (Family Violence Provisions for Partner Visa Applicants) Regulations 2024* (the **amending Schedule**) apply in relation to an application for a visa:
 - (a) made, but not finally determined, before the commencement of the amending Schedule; or
 - (b) made on or after that commencement.
- (2) The amendment of regulation 4.02 of these Regulations made by the amending Schedule applies in relation to a decision made before, on or after the commencement of that Schedule.