

Migration Amendment (Visa Application Charge Refund) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 August 2024

Sam Mostyn AC

Governor‑General

By Her Excellency’s Command

Tony Burke

Minister for Immigration and Multicultural Affairs

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1 Name

 This instrument is the *Migration Amendment (Visa Application Charge Refund) 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 | The day after this instrument is registered. | 20 August 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Note: This table relates only to the provisions of this instrument as originally made.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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Migration Regulations 1994

1 At the end of regulation 2.12F

Add:

 (9) If:

 (a) an amount (the ***partial amount***) has been refunded under regulation 2.12FA in relation to an application for a visa; and

 (b) the Minister must or may, under this regulation, refund an amount paid in relation to the application;

then, despite anything in this regulation, the amount to be refunded under this regulation is to be reduced by an amount equal to the partial amount.

2 After regulation 2.12F

Insert:

2.12FA Partial refund of first instalment of visa application charge to certain applicants

Refund on request

 (1) If:

 (a) an amount (the ***paid amount***) has been paid by way of the first instalment of the visa application charge in relation to an application made on or after 1 July 2024 for a Student (Temporary) (Class TU) visa; and

 (b) one of the following applies:

 (i) the application was made by a person (the ***primary applicant***) seeking to meet the primary criteria for the grant of the visa;

 (ii) the application was combined, in a way permitted by Schedule 1, with the application made by the primary applicant (whether the primary applicant’s application was made before, on or after 1 July 2024);

 (iii) the application was made by a person who is a member of the family unit of another person (the ***primary visa holder***) who holds a Student (Temporary) (Class TU) visa, having satisfied the primary criteria for that visa; and

 (c) the paid amount is more than the amount (the ***old amount***) of the first instalment of the visa application charge that would have been payable in relation to the application if the application had been made on 30 June 2024; and

 (d) the Minister receives a written request from a person mentioned in subregulation (2) for a refund of the difference between the paid amount and the old amount; and

 (e) the Minister is satisfied that, at the time of the request, the primary applicant or the primary visa holder (as the case may be) held a valid passport issued by a specified country; and

 (f) no amount has been refunded under regulation 2.12F in relation to the application;

then the Minister must refund an amount equal to the difference between the paid amount and the old amount.

 (2) For the purposes of paragraph (1)(d), the written request must be from:

 (a) the person who paid the amount (the ***payer***); or

 (b) if the payer has a serious physical or mental incapacity—the payer’s legal personal representative; or

 (c) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*—the trustee of the estate of the payer.

Note: See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

Making of refunds

 (3) The Minister must not make a refund to the legal personal representative of a payer who has died unless the Minister has been given satisfactory evidence of the payer’s death.

 (4) A refund under this regulation must be:

 (a) paid to the person who made the request for the refund; or

 (b) provided to a person mentioned in paragraph (a) for payment to the applicant’s deceased estate.

 (5) If:

 (a) in the opinion of the Minister, there is no doubt about the identity of the payer; and

 (b) the Minister pays the amount of the refund to:

 (i) the payer; or

 (ii) a person mentioned in paragraph (2)(b) or (c);

a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.

 (6) A refund under this regulation may be paid:

 (a) in Australian currency; or

 (b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency—in that other currency.

Definition

 (7) In this regulation:

***specified country*** means the following:

 (a) Federated States of Micronesia;

 (b) Fiji;

 (c) Kiribati;

 (d) Nauru;

 (e) Palau;

 (f) Papua New Guinea;

 (g) Republic of the Marshall Islands;

 (h) Samoa;

 (i) Solomon Islands;

 (j) Timor‑Leste;

 (k) Tonga;

 (l) Tuvalu;

 (m) Vanuatu.

3 Regulations 2.12K and 2.12L

After “2.12F”, insert “, 2.12FA”.