

## EXPLANATORY STATEMENT

Issued by the Minister for Immigration and Multicultural Affairs

*Migration Act 1958*

### ***Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025***

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

In addition, subsection 31(1) of the Migration Act provides that there are to be prescribed classes of visas, and subsection 31(3) provides that the regulations may prescribe criteria for visas. Paragraph 46(1)(b) of the Migration Act provides that a visa application is valid only if it satisfies the criteria and requirements prescribed in the regulations. Paragraph 46(3) of the Migration Act provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application. Section 45B of the Migration Act provides that the regulations may prescribe the amount of the visa application charge (VAC), not exceeding the visa application charge limit, in relation to an application.

The *Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025* (the Regulations) implement the Government's commitment to simplifying and streamlining the migration program as announced in the Migration Strategy, and make various amendments of the *Migration Regulations 1994* (the Migration Regulations).

Part 1 of Schedule 1 to the Regulations repeals five visa classes, and also repeals thirteen visa subclasses in which the criteria for visas of the repealed classes are prescribed. These visas are no longer in use as part of the migration program and have been closed to new applications for some time. Transitional arrangements have been made in respect of any remaining undecided applications for the repealed visas. Consequential amendments also remove references to the repealed visas from the Migration Regulations.

Part 2 of Schedule 1 to the Regulations make a range of technical amendments to the update references in the Migration Regulations to ensure that they continue to operate as intended.

Part 1 of Schedule 1 to the Regulations repeals the following visas:

- Resident Return (Temporary) (Class TP) (Subclass 159) - this was a temporary visa for people who travelled outside of Australia outside of the travel facility on their

previous permanent visa and had an urgent and compelling need to return to Australia before they could provide evidence of being a permanent resident. There are two other Resident Return visas available to applicants in similar circumstances and no applications for this visa have been made since 2019-2020;

- Confirmatory (Residence) (Class AK) (Subclass 808) - this was a permanent visa for former holders of Norfolk Island entry permits. This was closed to new applications from 1 January 2024;
- Tourist visa (Class TR) (Subclass 676) - this visa was replaced by the Visitor (Subclass 600) visa in March 2013;
- Business Skills (Provisional) (Class UR) (Subclasses 160, 161, 162, 163, 164 and 165) - this visa class has been closed to new applicants since 1 July 2012;
- Business Skills (Residence) (Class DF) (Subclasses 890 891, 892 and 893) - this is the permanent visa for which holders of a Business Skills (Provisional) could apply; however as above, the provisional visa has been closed for over a decade.

The Regulations implement the Government's commitment to simplifying and streamlining the migration system by abolishing unnecessary and duplicative visas to simplify the visa system that was announced in the Migration Strategy. The Migration Strategy was informed by the findings of the 'Review of the Migration System' undertaken by Dr Martin Parkinson AC PSM and released in 2023. This Review was based on extensive consultation across government, business and community groups, unions and a large number of other relevant stakeholders and attracted 483 public submissions.

The Regulations do not operate retrospectively. The application provisions provide that the amendments made by Part 1 of Schedule 1 to the Regulations do not apply in relation to an application for a visa made before the commencement date or a visa granted before the commencement date. Despite the repeal or amendment of provisions by Part 1 of Schedule 1 to the amending regulations, the Regulations still allow the addition of a new-born child or other family member to an application that was made before the commencement date, where the newborn child or family member is added to the application before it is finally decided. A number of technical amendments are also made the Migration Regulations to ensure they are accurate and up to date.

The Migration Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The matters dealt with in the Regulations are appropriate for implementation in regulations rather than by Parliamentary enactment. It has been the consistent practice of the Government of the day to provide for detailed visa criteria and conditions in the Migration Regulations rather than in the Migration Act itself. The Migration Act expressly provides for these matters to be prescribed in regulations, as can be seen in the authorising provisions. Providing

for these details to be in delegated legislation rather than primary legislation gives the Government the ability to effectively manage the operation of Australia's visa program and respond quickly to emerging needs.

A Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of this Statement is at [Attachment A](#).

The Office of Impact Analysis was consulted in relation to the amendments made in line with the Migration Strategy prior to making the Regulations. The OIA confirmed a detailed impact analysis is not required. The OIA reference number is OBPR23-04044.

The development of the amendments in the Regulations was informed by consultation undertaken throughout the Migration Review with businesses, unions and other stakeholders undertaken, and which informed the Government's Migration Strategy. The Department also engaged in whole of government consultation in the course of developing the Migration Strategy, and worked with the Office of Parliamentary Counsel to identify and address certain technical matters covered by Part 2 of Schedule 1. No additional consultation was necessary in relation to the technical amendments as they do not make substantive changes to the legislation and are aimed at ensuring the Regulations are up to date and consistent with current drafting practice. This accords with subsection 17(1) of the *Legislation Act 2003* (the Legislation Act) which requires that appropriate and reasonably practicable consultation be undertaken.

The amendments commence on the day after registration.

Further details of the Regulations are set out in [Attachment B](#).

The Migration Regulations are exempt from sunseting pursuant to item 38A of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. The Migration Regulations are exempt from sunseting on the basis that the repeal and remaking of the Migration Regulations:

- is unnecessary as the Migration Regulations are regularly amended numerous times each year to update policy settings for immigration programs;
- would require complex and difficult to administer transitional provisions to ensure, amongst other things, the position of the many people who hold Australian visas, and similarly, there would likely be a significant impact on undecided visa and sponsorship applications; and
- would demand complicated and costly systems, training and operational changes that would impose significant strain on Government resources and the Australian public for insignificant gain, while not advancing the aims of the Legislation Act.

The Amendment Regulations will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the Legislation Act. Specifically, that Division (under section 48A) operates to automatically repeal a legislative instrument that has the sole purpose of amending or repealing another instrument. As the Amendment Regulations will automatically repeal, they do not engage the sunseting framework under Part 4 of the Legislation Act.

The Amendment Regulations are a legislative instrument for the purposes of the Legislation Act.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025***

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The *Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025* (Amendment Regulations) repeal provisions in the *Migration Regulations 1994* (Migration Regulations) that are redundant, and make consequential and technical amendments to ensure the Migration Regulations are up to date and fit for purpose. The Amendment Regulations implement the Government's commitment to simplifying and streamlining the migration program as announced in the Migration Strategy. This Strategy was released in 2023 following the findings of the 'Review of the Migration System' undertaken by Dr Martin Parkinson AC PSM.

Part 1 of Schedule 1 to the Regulation Amendment repeals the following visas:

- Resident Return (Temporary) (Class TP) (Subclass 159) – this visa was intended for a specific group of applicants for whom other visas are now available, and no applications have been received since 2020;
- Confirmatory (Residence) (Class AK) (Subclass 808) – this visa subclass was closed to new applications from 1 January 2024;
- Tourist visa (Class TR) (Subclass 676) – this visa subclass was replaced by the Visitor (Subclass 600) visa in March 2013;
- Business Skills (Provisional) (Class UR) (Subclasses 160, 161, 162, 163, 164 and 165) - this visa class has been closed to new primary applications since 1 July 2012;
- Business Skills (Residence) (Class DF) (Subclasses 890, 891, 892 and 893) – primary applicants for this permanent visa class are required to hold a Business Skills (Provisional) (Class UR) visa which has been closed to new primary applicants since 1 July 2012, and there are therefore no new applicants who are eligible to apply for a Class UR visa.

Part 1 of Schedule 1 to the Amendment Regulations also makes a number of consequential amendments to remove references to the repealed visas.

Part 2 of Schedule 1 to the Amendment Regulations makes a number of technical amendments which have no substantive effect but ensure the Migration Regulations are up to date and fit for purpose, including:

- removing redundant references to ‘permanent entry permit’ and ‘permanent entry visa’ as both of these terms have been replaced with ‘permanent visa’;
- replacing references to Her Majesty Queen Elizabeth II with ‘the Sovereign’;
- updating redundant references to the ‘Australian Crime Commission’ with ‘the Australian Criminal Intelligence Commission’. This amendment is required to reflect the establishment of the Australian Criminal Intelligence Commission on 1 July 2016 following the merger of the Australian Crime Commission and CrimTrac;
- consequential technical amendments to the definitions of ‘registered course’ and ‘earnings’ that are required following amendments to other portfolio’s legislation including the *Education Services for Overseas Student Act 2000* and *Income Tax Assessment Act 1997*; and
- replacing outdated references to a title of a Minister, including the ‘Minister for Immigration and Citizenship’ and ‘Minister for Finance and Deregulation’. While changes to a title of a Minister do not render the provision redundant in accordance with section 19 of the *Acts Interpretation Act 1901*, these amendments future-proof the Migration Regulations and ensure consistency with current drafting practice.

### **Human Rights Implications**

The Amendment Regulations do not engage any of the applicable rights or freedoms, as they repeal closed, redundant or duplicative visa subclasses and make minor and technical amendments to the Migration Regulations. There will be no impact on the rights of individuals or existing holders of the repealed visas.

### **Conclusion**

The Disallowable instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Tony Burke MP**  
**Minister for Immigration and Multicultural Affairs**

**Details of the *Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025* (the Regulations).

**Section 2 – Commencement**

This section provides for the Regulations to commence on the day after they are registered.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Migration Act 1958* (the Migration Act).

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

**Schedule 1—Amendments**

**Part 1 – Visa repeals**

***Migration Regulations 1994***

**Item [1] – Regulation 1.03 (paragraph (a) of the definition of Australian permanent resident)**

This item omits the words “or a Resident Return (Temporary) (Class TP) visa” from paragraph (a) of the definition of *Australian permanent resident* in regulation 1.03 of the Migration Regulations.

This amendment is consequential to the repeal of the Resident Return (Temporary)(Class TP) visa by paragraphs (d) and (f) of item 18 below. Paragraph (a) of the definition of *Australian permanent resident*, as amended, only refers to an applicant for a Return (Residence) (Class BB) visa, which continues to be a current visa.

**Item [2] – Subregulation 1.11A(1)**

This item amends subregulation 1.11A(1) of the Migration Regulations to remove references to Subclasses 890, 891, 892 and 893, leaving only references to Subclasses 188 and 888. This amendment is consequential to the repeal of Subclasses 890, 891, 892 and 893 by

paragraphs (a), (o), (p), (q) and (r) of item 18 below, respectively. Subclasses 188 and 888, as referred to in subregulation 1.11A(1) as amended, continue to be current visas.

**Item [3] – Paragraphs 1.20(4)(e) and (f)**

This item repeals paragraphs 1.20(4)(e) and (f) of the Migration Regulations. Paragraph 1.20(4)(e) referred to Business Skills (Residence)(Class DF) and paragraph 1.20(f) referred to Business Skills (Provisional)(Class UR). This amendment is consequential to the repeal of those visas by paragraphs (a), (c), (g) – (l), (o), (p), (q) and (r) of item 18 below respectively.

**Item [4] – Subparagraph 2.03A(3)(a)(ii)**

This item repeals subparagraph 2.03A(3)(a)(ii) of the Migration Regulations. Subparagraph 2.03A(3)(a)(ii) referred to a Business Skills (Provisional)(Class UR) visa. This amendment is consequential to the repeal of that class by paragraph (c) and (g) to (l) of item 18 below.

**Item [5] – Subparagraph 2.08B(1)(a)(viii)**

This item repeals subparagraph 2.08B(1)(a)(viii) of the Migration Regulations. Subparagraph 2.08B(1)(a)(viii) referred to a Business Skills (Provisional)(Class UR) visa. This amendment is consequential to the repeal of that class by paragraphs (c) and (g) to (l) of item 18 below.

**Item [6] – Paragraph 2.11(2A)(b)**

This item amends the ending of paragraph 2.11(2A)(b) of the Migration Regulations as a consequence to the repeal of paragraph 2.11(2A)(c) by item 7 below.

**Item [7] – Paragraph 2.11(2A)(c)**

This item repeals paragraph 2.11(2A)(c) of the Migration Regulations. Paragraph 2.11(2A)(c) referred to a resident return (temporary)(Class TP) visa. This amendment is consequential to the repeal of that visa by paragraphs (d) and (f) of item 18 below.

**Item [8] – Paragraph 2.12F(2)(d)**

This item repeals paragraph 2.12F(2)(d) of the Migration Regulations. Paragraph 2.12F(2)(d) referred to a tourist (Class TR) visa. This amendment is consequential to the repeal of that visa by paragraphs (e) and (m) of item 18, below.

**Item [9] – Paragraphs 2.12F(2B)(d), (e), (g), (h), (i) and (j)**

This item repeals paragraphs 2.12F(2B)(d), (e), (g), (h), (i) and (j) of the Migration Regulations. These paragraphs provided for refunds of the first instalment of the Visa Application Charge paid on an application for a Subclass 457 (Temporary Work (Skilled)), Subclass 488 (Superyacht Crew), Subclass 416 (Special Program), Subclass 401 (Temporary Work (Long Stay Activity)), Subclass 402 (Training and Research) and Subclass 420 (Temporary Work (Entertainment)) visas. All of these visas have been successively repealed from 2016 onwards. No further applications for these visas may be made and there has now been ample time for applicants eligible for a refund to have claimed it.



**Item [10] – Sub-subparagraph 2.15(1)(b)(ii)(A)**

This item amends sub-subparagraph 2.15(1)(b)(ii)(A) of the Migration Regulations to omit a reference to a Tourist (Class TR) visa. This amendment is consequential to the repeal of the Tourist (Class TR) visa by paragraphs (e) and (m) of item 18, below.

**Item [11] – Subparagraph 2.15(3)(b)(i)**

This item amends subparagraph 2.15(3)(b)(i) of the Migration Regulations to omit a reference to a Tourist (Class TR) visa. This amendment is consequential to the repeal of the Tourist (Class TR) visa by paragraphs (e) and (m) of item 18, below.

**Item [12] – Paragraph 2.21B(1)(b)**

This item amends paragraph 2.21(1)(b) of the Migration Regulations to omit a reference to a Tourist (Class TR) visa. This amendment is consequential to the repeal of the Tourist (Class TR) visa by paragraphs (e) and (m) of item 18, below.

**Item [13] Subregulation 2.50(4) (definition of *return visa*)**

This item repeals the definition of *return visa* in subregulation 2.50(4) of the Migration Regulations and substitutes a new definition which refers only to a Return (Residence) (Class BB) visa. The previous definition also referred to a Resident Return (Temporary) (Class TP) visa which is repealed by paragraphs (d) and (f) of item 18, below. Consequently, the reference to that visa is omitted from the substituted definition.

**Item [14] – Paragraph 773.213(1)(b) of Schedule 2**

This item amends paragraph 773.213(1)(b) of Schedule 2 to the Migration Regulations, to remove a reference to a Resident Return (Temporary) visa. This amendment is consequential to the repeal of the Resident Return (Temporary)(Class TP) visa by paragraphs (d) and (f) of item 18, below.

**Item [15] – clause 8549 of Schedule 8**

This item repeals clause 8549 of Schedule 8 to the Migration Regulations and substitutes a new clause 8549. The clause prescribes a condition 8549 that may be applied to certain visas to require that the holder must live, study and work only in a designated area of Australia. Previously the condition included a special provision that applied only to certain holders of a Subclass 159 (Provisional Resident Return) visa that required the holder to live, study and work in Norfolk Island. The amended condition omits that special provision consequential to the repeal of Part 159 by paragraph (f) of item 18 below.

**Item [16] – Part 1 of Schedule 9 (table item 23, column 2, subparagraphs (b)(i) and (ii))**

This item repeals subparagraphs 23(b)(i) and (ii) in item 23 of the table in Part 1 of Schedule 9 to the Migration Regulations. Part 1 of Schedule 9 relates to persons for whom special arrangements apply for immigration clearance under section 166 of the *Migration Act 1958*. Subparagraphs (b)(i) and (ii) of item 23 in the table referred to holders of certain passports

specified under paragraph 1218(3)(d) or subparagraph 1218(1)(b)(ii) of Schedule 1 to the Migration Regulations, respectively. These references are now redundant as item 1218 (Tourist (Class TR) of Schedule 1 to the Migration Regulations is repealed by paragraph (e) of item 18 below. The subparagraphs are also consequently repealed.

### **Item [17] – In the appropriate position in Schedule 13**

This item inserts Part 153 into Schedule 13 to the Migration Regulations. Schedule 13 sets out the application and transitional provisions that apply to amendments of the Migration Regulations.

Clause 15301 of new Part 153 inserts two definitions. The definitions provide that in Part 153, a reference to **amending regulations** means the *Migration Amendment (Repeal, Consequential and Technical Amendments) Regulations 2025*, a reference to the **commencement day** means the day the amending regulations commence.

Subclause 15302(1) provides that the amendments of the Migration Regulations made by Part 1 of Schedule 1 to the amending regulations do not apply in relation an application for a visa made before the commencement date or a visa granted before the commencement date.

Subclause 15302(2) provides that despite the repeal or amendment of provisions by Part 1 of Schedule 1 to the amending regulations, those provisions continue to apply in relation to an application for a visa that is taken to have been made by a person before, on or the commencement date in accordance with regulation 2.08, 2.08A or 2.08B. Those regulations relate to the addition of a new-born child or certain other family members to an application that was made before the commencement date, where the newborn child or family member is added to the application before it is finally decided.

### **Item [18] – Amendments of listed provisions – repeals**

This item repeals a number of visa classes and subclasses in Schedules 1 and 2 to the Migration Regulations. These classes and subclasses are repealed because they are no longer used or required.

Paragraph (a) repeals item 1104B (Business Skills (Residence)(Class DF)) of Schedule 1 to the Migration Regulations. An applicant for a Class DF permanent visa was required to hold a Business Skills (Provisional) (Class UR) temporary visa. Class UR visas were closed to applicants seeking to satisfy the primary criteria from 1 July 2012. There are now no holders of those visas remaining who would be eligible to apply for a Class DF visa, and the class is therefore redundant.

Paragraph (b) repeals item 1111 (Confirmatory (Residence)(Class AK)) of Schedule 1 to the Migration Regulations. Class AK visas provided a permanent visa to special groups of applicants, including former holders of Norfolk Island entry permits, who no longer require the visa or for whom other visas are now available. No valid applications for the visa have been made since 1 January 2024 and the class is therefore now redundant.

Paragraph (c) repeals item 1202A (Business Skills (Provisional)(Class UR)) of Schedule 1 to the Migration Regulations. Class UR visas were closed to further applications by applicants seeking to satisfy the primary criteria from 1 July 2012. There are now no remaining holders of the visa and the class is therefore redundant.

Paragraph (d) repeals item 1216 (Resident Return (Temporary)(Class TP)) of Schedule 1 to the Migration Regulations. This temporary visa was for former permanent visa holders who travelled outside Australia and did not have a return travel facility but could establish an urgent and compelling need to return to Australia before they could provide evidence of their permanent residency. Other Return Resident visas are available to applicants in similar circumstances and Class TP visas have not been granted since program year 2018-2019.

Paragraph (e) repeals item 1218 (Tourist (Class TR)) of Schedule 1 to the Migration Regulations. Class TR visas were replaced by Visitor (Class FA) visas from 23 March 2013 and the class is therefore now redundant.

Paragraph (f) repeals Part 159 of Schedule 2 to the Migration Regulations. Part 159 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 159 (Provisional Resident Return) visa that was a visa of Class TP, which is repealed by paragraph (d), above.

Paragraph (g) repeals Part 160 of Schedule 2 to the Migration Regulations. Part 160 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 160 (Business Owner (Provisional)) visa that was a visa of Class UR, which is repealed by paragraph (c), above.

Paragraph (h) repeals Part 161 of Schedule 2 to the Migration Regulations. Part 161 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 161 (Senior Executive (Provisional)) visa that was a visa of Class UR, which is repealed by paragraph (c) above.

Paragraph (i) repeals Part 162 of Schedule 2 to the Migration Regulations. Part 162 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 162 (Investor (Provisional)) visa that was a visa of Class UR, which is repealed by paragraph (c) above.

Paragraph (j) repeals Part 163 of Schedule 2 to the Migration Regulations. Part 163 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 163 (State/Territory Sponsored Business Owner (Provisional)) visa that was a visa of Class UR, which is repealed by paragraph (c) above.

Paragraph (k) repeals Part 164 of Schedule 2 to the Migration Regulations. Part 164 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) that was a visa of Class UR, which is repealed by paragraph (c) above.

Paragraph (l) repeals Part 165 of Schedule 2 to the Migration Regulations. Part 165 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa that was a visa of Class UR, which is repealed by paragraph (c) above.

Paragraph (m) repeals Part 676 of Schedule 2 to the Migration Regulations. Part 676 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 676 (Tourist)) visa that was a visa of Class TR, which is repealed by paragraph (e) above.

Paragraph (n) repeals Part 808 of Schedule 2 to the Migration Regulations. Part 808 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 808 (Confirmatory (Residence)) visa that was a visa of Class AK, which is repealed by paragraph (b) above.

Paragraph (o) would repeal Part 890 of Schedule 2 to the Migration Regulations. Part 890 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 890 (Business Owner) visa that was a visa of Class DF, which is repealed by paragraph (a) above.

Paragraph (p) repeals Part 891 of Schedule 2 to the Migration Regulations. Part 891 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 891 (Investor) visa that was a visa of Class DF, which is repealed by paragraph (a) above.

Paragraph (q) repeals Part 892 of Schedule 2 to the Migration Regulations. Part 892 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa that was a visa of Class DF, which is repealed by paragraph (a) above.

Paragraph (r) repeals Part 893 (Subclass 893 (State/Territory Sponsored Investor) of Schedule 2 to the Migration Regulations. Part 893 of Schedule 2 provided the criteria and other requirements for the grant of a Subclass 893 (State/Territory Sponsored Investor) visa that was a visa of Class DF, which is repealed by paragraph (a) above.

## **Part 2 – Technical amendments**

### ***Migration Regulations 1994***

#### **Item [19] – Regulation 1.03 (definition of *CNI number*)**

This item amends the definition of *CNI number* in regulation 1.03 of the Migration Regulations, by omitting the word ‘Crime’ and substituting the words “Criminal Intelligence”.

The definition refers to a central names index number generated by the National Automated Fingerprint Identification System maintained by or on behalf of the Australian Crime Commission which changed its name in 2016 to the Australian Criminal Intelligence Commission. This amendment updates the name of the relevant agency.

**Item [20] – Regulation 1.03 (definition of *member of the Royal family*)**

**Item [21] – Regulation 1.03 (paragraph (a) of the definition of *member of the Royal party*)**

**Item [22] – Regulation 1.03 (paragraphs (c) and (d) of the definition of *member of the Royal party*)**

Items 20, 21 and 22 amend three definitions in regulation 1.03 of the Migration Regulations, all of which previously referred to ‘the Queen’ in recognition of Her Majesty Queen Elizabeth II. The amendments change these references to the non-gender specific term ‘Sovereign’, to update the references to the reigning Sovereign and ensure consistency across Australia's legislative framework.

**Item [23] – Regulation 1.03 (definitions of *permanent entry permit* and *permanent entry visa*)**

This item amends regulation 1.03 of the Migration Regulations to repeal the definitions of *permanent entry permit* and *permanent entry visa*. Permanent entry permits and permanent entry visas have not been granted since the reform of the visa framework on 1 September 1994, when existing permanent entry permits and permanent entry visas were converted into permanent visas by transitional arrangements under the current Migration Regulations. The definitions are therefore now redundant.

**Item [24] – Regulation 1.03 (note to the definition of *registered course*)**

This item amends the note under the definition of *registered course* in regulation 1.03 of the Migration Regulations by omitting the reference to section 10 of the *Education Services for Overseas Students Act 2000* (ESOS Act) and substituting a reference to section 14A. In 2012, the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012* repealed section 10 and inserted a new Division 4. As a consequence, the list of registered courses appearing in the Commonwealth Register of Institutions and Courses for Overseas Students is now kept under section 14A of the *Education Services for Overseas Students Act 2000*. While this amendment does not affect the substantive definition of registered course, it ensures the note draws the reader's attention to the current relevant provision of the ESOS Act.

**Item [25] – Subparagraph 2.15(1)(b)(ii)**

This item amends subparagraph 2.15(1)(b)(ii) to correct a reference to subparagraphs (i) and (ia).

**Item [26] – Paragraph 2.57A(4)(b)**

This item amends paragraph 2.57A(4)(b) of the Migration Regulations by omitting a reference to 292-175 of the *Income Tax Assessment Act 1997* and substituting a reference to section 291-175 of that Act. This updating of the reference is required because section 292-

175 was repealed by the *Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Act 2013* and re-made as section 291-175.

**Item [27] – Regulation 5.34F (heading)**

This item amends the heading of regulation 5.34F of the Migration Regulations by changing a reference to the ‘Australian Crime Commission’ to refer to the ‘Australian Criminal Intelligence Commission’. The heading to regulation 5.34F is now ‘Disclosure of information to police and Australian Criminal Intelligence Commission’. This amendment reflects the merger of the Australian Crime Commission and CrimTrac in 2016 and the establishment of the Australian Crime Intelligence Commission.

**Item [28] – Paragraph 5.34(2)(c)**

This item amends paragraph 5.34(2)(c) of the Migration Regulations to change a reference to the Australian Crime Commission to refer to the Australian Criminal Intelligence Commission. This amendment reflects the merger of the Australian Crime Commission and CrimTrac in 2016 and the establishment of the Australian Crime Intelligence Commission.

**Item [29] – Subparagraph 155.212(2)(a)(i) of Schedule 2**

**Item [30] – Subparagraph 155.212(2)(b)(i) of Schedule 2**

**Item [31] – Sub-subparagraph 157.212(2)(a)(i)(A) of Schedule 2**

**Item [32] – Sub-subparagraph 157.212(2)(a)(ii)(A) of Schedule 2**

Items 29, 30, 31 and 32 omit references to a ‘permanent entry permit’ from provisions in the criteria for the grant of a Subclass 155 (Five Year Resident Return) visa and a Subclass 157 (Three Month Resident Return) visa in Schedule 2 to the Migration Regulations. Permanent entry permits have not been granted since the reform of the visa framework on 1 September 1994. From that date, existing permanent entry permits were converted into permanent visas under transitional arrangements under the Migration Regulations. These references are therefore now redundant.

**Item [33] – Clause 200.111 of Schedule 2 (definition of *relevant Minister*)**

This item repeals the definition of *relevant Minister* in clause 200.111 of Schedule 2 to the Migration Regulations and substitutes a new definition. The previous definition provided that a relevant Minister for the purposes of a Subclass 200 (Refugee) visa is the Attorney-General, the Minister for Defence, the Minister for Foreign Affairs, the Minister for Home Affairs, or the Minister for Immigration and Citizenship. The new definition is the same in substance, however in place of the separate references to the Minister for Home Affairs and the Minister for Immigration and Citizenship, there is a single reference to ‘the Minister’, which refers to any Minister who has responsibility for administering the Migration Act and subordinate legislation from time to time. This item also updates the references to the ‘Defence Minister’ and ‘Foreign Minister’. Section 19 of the *Acts Interpretation Act 1901*

ensures continuity of references to a Minister in the event of a change in the Minister's title, and this amendment ensures consistency in the way a Minister is referred to over time.

**Item [34] – Paragraph 200.211(1B)(b) of Schedule 2**

This item omits the reference to 'Minister for Finance and Deregulation' in paragraph 200.211(1B)(b) of Schedule 2 to the Migration Regulations and substitutes 'Finance Minister'. This amendment ensures consistency in the reference to the relevant Minister irrespective of the title of the Minister from time to time.

**Item [35] – Clause 201.111 of Schedule 2 (definition of *relevant Minister*)**

This item repeals the definition of *relevant Minister* in clause 201.111 of Schedule 2 to the Migration Regulations and substitutes a new definition. The effect of this amendment is the same as for the amendment made to a similar provision in clause 200.111 of Schedule 2 by item 33 above.

**Item [36] – Paragraph 201.211 (1B)(b) of Schedule 2**

This item omits the reference to 'Minister for Finance and Deregulation' in paragraph 201.211(1B)(b) of Schedule 2 to the Migration Regulations and substitutes 'Finance Minister'. This amendment ensures consistency in the reference to the relevant Minister irrespective of the title of the Minister from time to time.