

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 74

Issued by the Minister for Immigration and Citizenship

Migration Act 1958

Migration Amendment Regulations 2011 (No. 3)

Subsection 504(1) of the *Migration Act 1958* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

In addition, regulations may be made pursuant to the provisions of the Act in Attachment A.

The purpose of the Regulations is to amend *Migration Regulations 1994* (the Principal Regulations) to introduce a new points test for applicants for certain General Skilled Migration visas (GSM visas).

In particular, the Regulations amend the Principal Regulations to:

- amend several definitions relating to English language qualifications to clarify the time frame within which an English language test must have been conducted for the purposes of a visa application;
- increase the threshold English language requirement for applicants for a Subclass 475 (Skilled – Regional Sponsored) visa or a Subclass 487 (Skilled – Regional Sponsored) visa to provide consistency for English language qualifications across all GSM visas;
- place greater emphasis on skilled work experience in the requirements for the grant of GSM visas;
- prescribe qualifications and points under new Schedule 6C in respect of certain applicants for a GSM visa for which criteria require the applicant to receive a qualifying score when assessed under Subdivision B of Division 3 of Part 2 of the Act; and
- make a number of minor amendments that are consequential to the insertion of new Schedule 6C for the purposes of prescribing qualifications and points.

Details of the Regulations are set out in Attachment B.

The Regulations commence on 1 July 2011.

The Office of Best Practice Regulation (the OBPR) has been consulted in relation these Regulations and advises that the Regulations are not likely to have a direct effect, or substantial indirect effect, on business and are not likely to restrict competition. The OBPR consultation reference is 11343.

Consultation regarding the General Points Test for GSM visas was conducted with Commonwealth Government Departments as part of an Interdepartmental Committee. Consulted departments include the Department of the Prime Minister and Cabinet, the Department of Finance and Deregulation, the Treasury, the Attorney-General's Department, the Department of Education, Employment and Workplace Relations, the Department of Foreign Affairs and Trade, the Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Health and Aging, the Department of Innovation, Industry, Science and Research and each of the relevant assessing authorities (see regulation 2.26B in Division 2.6 of Part 2 to the Principal Regulations) prescribed for the purposes of a skilled occupation (see regulation 1.15I in Division 1.2 of Part 1 to the Principal Regulations) have been consulted regarding their roles in assessing an applicant's qualifications and relevant work experience.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

ATTACHMENT A

Subsection 504(1) of the *Migration Act 1958* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

In addition, the following provisions may apply:

- subsection 31(1) of the Act, which provides that the *Migration Regulations 1994* (the Principal Regulations) may prescribe classes of visas;
- subsection 31(3) of the Act, which provides that the regulations may prescribe criteria for a visa or visas of a specified class (which, without limiting the generality of this subsection, may be a class provided for by section 32, 36, 37, 37A or 38B but not by section 33, 34, 35, 38 or 38A); and
- subsection 93(1), which provides that the Minister shall make an assessment by giving the applicant the prescribed number of points for each prescribed qualification that is satisfied in relation to the applicant.

ATTACHMENT B**Details of the Migration Amendment Regulations 2011 (No. 3)****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Migration Amendment Regulations 2011 (No. 3)*.

Regulation 2 – Commencement

This regulation provides that these Regulations commence on 1 July 2011.

Regulation 3 – Amendment of Migration Regulations 1994

Subregulation 3(1) provides that Schedule 1 amends the *Migration Regulations 1994* (the Principal Regulations).

Subregulation 3(2) provides that the amendments made by Schedule 1 (other than items [3], [4], [25] and [26]) apply in relation to an application for a General Skilled Migration visa (within the meaning of the Principal Regulations) made on or after 1 July 2011.

The note to regulation 3 provides that items [4], [25] and [26] insert provisions in the Principal Regulations which identify the visa applications to which they apply. Item [3] is consequential to items [4], [25] and [26].

Schedule 1 – Amendments relating to the points test**Item [1] – Regulation 1.03, after definition of *substituted Subclass 676 visa***

This item inserts the definition of *superior English* after the definition of *substituted Subclass 676 visa* in regulation 1.03 of Division 1.2 of Part 1 to the Principal Regulations.

The new definition provides that *superior English* has the meaning given by regulation 1.15EA.

This amendment is consequential to the amendment made by item [2] of this Schedule, which inserts regulation 1.15EA to provide for the meaning of *superior English*.

Item [2] – Regulations 1.15C to 1.15E

This item substitutes regulations 1.15C to 1.15E with new regulations 1.15C to 1.15EA in Division 1.2 of Part 1 to the Principal Regulations.

Regulation 1.15C currently provides the circumstances in which an applicant for a *General Skilled Migration visa* (GSM visa) will satisfy the Minister that they have *competent English*. The term *General Skilled Migration visa* is defined in regulation 1.03 of Division 1.2 of Part 1 to the Principal Regulations. Regulation 1.15D currently provides the circumstances in which an applicant for a GSM visa will satisfy the Minister that they have *proficient English*. Regulation 1.15E currently provides the circumstances in which an

applicant for a GSM visa will satisfy the Minister that they have *concessional competent English*.

New regulations 1.15C, 1.15D and 1.15E define the terms *competent English*, *proficient English* and *concessional competent English* respectively.

New regulation 1.15C provides that *competent English* means that, if a person applies for a GSM visa, the person has *competent English* if the person:

- satisfies the Minister that:
 - the person undertook a language test, specified by the Minister in an instrument in writing for subparagraph 1.15C(a)(i); and
 - the test was conducted in the two years immediately before the day on which the application was made; and
 - the person achieved a score specified in the instrument; or
- satisfies the Minister that the person holds a passport of a type specified by the Minister in an instrument in writing for paragraph 1.15C(b).

New regulation 1.15D provides that *proficient English* means that, if a person applies for a GSM visa, the person has *proficient English* if the person satisfies the Minister that:

- the person undertook a language test, specified by the Minister in an instrument in writing for paragraph 1.15D(a); and
- the test was conducted in the two years immediately before the day on which the application was made; and
- the person achieved a score specified in the instrument.

New regulation 1.15E provides that *concessional competent English* means that, if a person applies for a GSM visa, the person has *concessional competent English* if the person satisfies the Minister that:

- the person undertook a language test, specified by the Minister in an instrument in writing for paragraph 1.15E(a); and
- the test was conducted in the two years immediately before the day on which the application was made; and
- the person achieved a score specified in the instrument.

New regulations 1.15C, 1.15D and 1.15E no longer include references to an applicant having achieved an *IELTS test* score of at least 6 or 7 for each of the 4 test components of speaking, reading, writing or listening. *IELTS test* is defined in regulation 1.03 in Division 1.2 of Part 1 to the Principal Regulations as meaning the International English Language Testing System test.

These amendments remove from the Principal Regulations any perceived preference or bias towards IELTS testing. These amendments also provide the Minister with the flexibility to specify alternative English language tests in the future, which will assist applicants to satisfy the criteria for the English language definitions.

New regulations 1.15C, 1.15D and 1.15E also clarify that the person will only have *competent English*, *proficient English* or *concessional competent English*, if the Minister is satisfied that the language test undertaken by the person was conducted no more than two years immediately before the day on which the application for a GSM visa was made.

These amendments ensure that an applicant for a GSM visa is assessed as holding the relevant English language test score before the application for a GSM visa is made. This supports the policy intention that only applicants who are assessed as having the specified English language test score prior to making their application for the GSM visa may satisfy the relevant Schedule 2 criterion.

New regulation 1.15EA provides for the definition of *superior English*.

New regulation 1.15EA provides that *superior English* means that, if a person applies for a GSM visa, the person has *superior English* if the person satisfies the Minister that:

- the person undertook a language test, specified by the Minister in an instrument in writing for paragraph 1.15EA(a); and
- the test was conducted in the two years immediately before the day on which the application was made; and
- the person achieved a score specified in the instrument.

This amendment is consequential to the amendment made by item [26] of this Schedule, which inserts the new Schedule 6C “General points test for General Skilled Migration visas – applications on or after 1 July 2011 and other specified applications” (the Schedule 6C points test) into the Principal Regulations. New Part 6C.2 of Schedule 6C provides for the award of 20 points in circumstances where an applicant for a GSM visa has *superior English*.

Item [3] – Subregulation 1.15I(1)

This item substitutes subregulation 1.15I(1) with new subregulation 1.15I(1) in Division 1.2 of Part 1 to the Principal Regulations.

Subregulation 1.15I(1) currently provides that a *skilled occupation*, in relation to a person, means an occupation of a kind that:

- is specified by the Minister in an instrument in writing to be a skilled occupation; and
- for which a number of points specified in the instrument are available; and
- is applicable to the person in accordance with the specification.

New subregulation 1.15I(1) provides that a *skilled occupation*, in relation to a person, means an occupation of a kind:

- that is specified by the Minister in an instrument in writing to be a skilled occupation; and
- if a number of points are specified in the instrument as being available – for which the number of points are available; and
- that is applicable to the person in accordance with the specification of the occupation.

This amendment is consequential to the amendments made by item [26] which give effect to the new Schedule 6C points test. This amendment clarifies that points may be specified in relation to an occupation which has been specified as a skilled occupation by the Minister in an instrument in writing.

Unlike Schedule 6B, currently entitled “General points test – qualifications and points (General Skilled Migration visas)” (the Schedule 6B points test), the new Schedule 6C points test does not award points for occupational qualifications. As a consequence, it is not necessary for the Minister to specify a number of points in relation to a skilled occupation for an applicant who is assessed under the new Schedule 6C points test.

Item [4] – Regulation 2.26AA

This item substitutes regulation 2.26AA with new regulations 2.26AA and 2.26AB in Division 2.6 of Part 2 to the Principal Regulations.

Regulation 2.26AA currently provides for the prescribed qualifications and number of points for GSM visas for which the criteria require the applicant to receive a qualifying score when assessed under Subdivision B of Division 3 of Part 2 of the *Migration Act 1958* (the Act). In particular, section 92 of the Act provides that the Subdivision has effect where one of the prescribed criteria in relation to a visa of a particular class is the criterion that the applicant receives the qualifying score when assessed as provided by that Subdivision (that is, when assessed under the Schedule 6B points test). Subsection 93(1) provides that the Minister shall make an assessment by giving the applicant the prescribed number of points for each prescribed qualification that is satisfied in relation to the applicant.

New subregulation 2.26AA(1) provides that regulation 2.26AA applies to an applicant for a points-tested GSM visa if the application was made, but not finally determined (within the meaning of subsection 5(9) of the Act), before 1 July 2011.

New subregulation 2.26AA(2) provides that regulation 2.26AA applies to an applicant for a points-tested GSM visa if:

- the applicant is a person, or a person in a class of persons, specified in an instrument in writing made by the Minister for paragraph 2.26AA(2)(a); and
- the application is made on or after 1 July 2011 but before 1 January 2013.

New subregulation 2.26AA(3) provides that, for subsection 93(1) of the Act (which deals with determination of an applicant’s points score), each qualification in an item of Schedule 6B is prescribed as a qualification in relation to the grant, to the applicant, of the points-tested GSM visa for which the applicant applied.

New subregulation 2.26AA(4) provides that, if apart from this subregulation, one or more of the qualifications in Parts 6B.11 and 6B.12 of Schedule 6B apply in determining the applicant’s point score:

- only 1 of the items is to apply in determining the applicant’s points score; and
- the item that specifies the greater or greatest points is to be used.

New subregulation 2.26AA(5) provides that the number of points specified in an item of Schedule 6B is prescribed for the qualification specified in the item.

New subregulation 2.26AA(6) provides that, for subsection 93(1) of the Act:

- the Minister must not give the applicant a prescribed number of points for more than one prescribed qualification in each Part of Schedule 6B; and
- if the applicant's circumstances satisfy more than one prescribed qualification, the Minister must give the applicant the prescribed number of points that is the highest for any of the prescribed qualifications; and
- the Minister must not give the applicant a prescribed number of points for item 6B12 of Part 6B.1 of Schedule 6B unless the applicant is assessed by the relevant assessing authority as holding a degree that is equivalent to a degree of an Australian tertiary educational institution; and
- the Minister must not give the applicant a prescribed number of points for item 6B13 of Part 6B.1 of Schedule 6B unless the applicant is assessed by the relevant assessing authority as holding a diploma or advanced diploma that is equivalent to a diploma or advanced diploma of an Australian educational institution.

New subregulation 2.26AA(7) provides that, in working out the number of points to be given to an applicant for Part 6B.7 of Schedule 6B, the Minister must have regard to whichever of the following matters is more favourable to the applicant:

- the occupations that were specified as migration occupations in demand at the time the application was made;
- the occupation that are specified as migration occupations in demand at the time the assessment mentioned in subsection 93(1) of the Act is made.

New subregulation 2.26AA(8) provides that, in regulation 2.26AA, *points-tested General Skilled Migration visa* means any of the following GSM visa subclasses:

- Subclass 175 (Skilled – Independent);
- Subclass 176 (Skilled – Sponsored);
- Subclass 475 (Skilled – Regional Sponsored);
- Subclass 487 (Skilled – Regional Sponsored);
- Subclass 885 (Skilled – Independent);
- Subclass 886 (Skilled – Sponsored).

New subregulation 2.26AA(9) defines certain terms for the purposes of Schedule 6B. The terms *degree*, *diploma*, and *trade qualification* have the meanings given by subregulation 2.26A(6) of Division 2.6 of Part 2 to the Principal Regulations while the term *employed* has the meaning given by subregulation 2.26A(7) of the same Division. The term *professional year* means a course specified by the Minister in an instrument in writing for this definition.

These amendments limit the prescribed qualifications and number of points provided by regulation 2.26AA to an applicant for a points-tested GSM visa whose application was made, but not finally determined (within the meaning of subsection 5(9) of the Act), before 1 July 2011 or to an applicant who is a person or in a class of person who is specified by the Minister in an instrument in writing made by the Minister for paragraph 2.26AA(2)(a) and who makes their application for a visa after 1 July 2011 but before 1 January 2013.

New regulation 2.26AB provides for the prescribed qualifications and number of points for other applications for GSM visas. Similarly to new regulation 2.26AA, new regulation 2.26AB provides for the prescribed qualifications and number of points in respect of certain applicants for a GSM visa for which the criteria require the applicant to receive a qualifying score when assessed under Subdivision B of Division 3 of Part 2 of the Act. In particular, section 92 of the Act provides that the Subdivision has effect where one of the prescribed criteria in relation to a visa of a particular class is the criterion that the applicant receives the qualifying score when assessed as provided by that Subdivision (that is, when assessed under the Schedule 6C points test). Subsection 93(1) provides that the Minister shall make an assessment by giving the applicant the prescribed number of points for each prescribed qualification that is satisfied in relation to the applicant.

New subregulation 2.26AB(1) provides that regulation 2.26AB applies to an applicant for a points-tested GSM visa if the application was made on or after 1 July 2011 and subregulation 2.26AA(2) does not apply.

New subregulation 2.26AB(2) provides that, regulation 2.26AB also applies to an applicant for a points-tested GSM visa if:

- the applicant is a person, or a person in a class of persons, specified by the Minister in an instrument in writing for paragraph 2.26AB(2)(a); and
- the application is made on or after 1 July 2011 but before 1 January 2013; and
- the applicant's score is assessed in accordance with Schedule 6B for section 93 of the Act; and
- the applicant's assessed score in accordance with Schedule 6B is less than the applicable pass mark at the time when the score is assessed.

New subregulation 2.26AB(2) allows the cohort of applicants specified under paragraphs 2.26AB(2)(a) and (b) who have been assessed in accordance with Schedule 6B and whose assessed score is less than the applicable pass mark for Schedule 6B to be assessed in accordance with Schedule 6C for section 93 of the Act.

This amendment ensures that applicants who fall within the specified cohort will have the benefit of having a score assessed in accordance with Schedule 6B and, if they do not meet the relevant pass mark for Schedule 6B, then the applicant will be assessed in accordance with Schedule 6C for the purposes of section 93 of the Act. This amendment gives effect to the Government's announcement of 8 February 2011 which specified certain transitional arrangements for certain applicants for a GSM visa. These transitional arrangements ensure that the identified cohort of applicants continues to receive the benefit of the same legislative framework in effect on 8 February 2011, in the specified circumstances, for any GSM visa application made after 1 July 2011, but before 1 January 2013.

New subregulation 2.26AB(3) provides that, for subsection 93(1) of the Act (which deals with determination of an applicant's points score), each qualification in an item of Schedule 6C is prescribed as a qualification in relation to the grant, to the applicant, of the points-tested GSM visa for which the applicant applied.

New subregulation 2.26AB(4) provides that the number of points prescribed for a qualification specified in column 2 of an item of Schedule 6C is specified in column 3 of the item.

The note to subregulation 2.26AB(4) provides that Part 6C.5 of Schedule 6C recalculates an applicant's points if the applicant has qualifications specified in Parts 6C.3 and 6C.4 of that Schedule.

New subregulation 2.26AB(5) provides that, for subsection 93(1) of the Act:

- the Minister must not give the applicant a prescribed number of points for more than one prescribed qualification in each Part of Schedule 6C; and
- if the applicant's circumstances satisfy more than one prescribed qualification, the Minister must give the applicant the prescribed number of points that is the highest for any of the prescribed qualifications.

The note to subregulation 2.26AB(5) provides that Part 6C.5 of Schedule 6C recalculates an applicant's points if the applicant has qualifications specified in Parts 6C.3 and 6C.4 of that Schedule.

New subregulation 2.26AB(6) provides that, in regulation 2.26AB, *points-tested General Skilled Migration visa* means any of the following GSM visa subclasses:

- Subclass 175 (Skilled – Independent);
- Subclass 176 (Skilled – Sponsored);
- Subclass 475 (Skilled – Regional Sponsored);
- Subclass 487 (Skilled – Regional Sponsored);
- Subclass 885 (Skilled – Independent);
- Subclass 886 (Skilled – Sponsored).

New subregulation 2.26AB(7) provides definitions of certain terms for the purposes of Schedule 6C. The terms *degree*, *diploma*, and *trade qualification* have the meanings given by subregulation 2.26A(6) of Division 2.6 of Part 2 to the Principal Regulations, while the term *employed* has the meaning given by subregulation 2.26A(7) of the same Division. The term *professional year* means a course specified by the Minister in an instrument in writing for this definition.

These amendments provide that the prescribed qualifications and number of points provided by regulation 2.26AB are available to applicants for a points-tested GSM visa who make their application on or after 1 July 2011 and to whom subregulation 2.26AA(2) does not apply. The amendments also provide that prescribed qualifications and number of points provided by regulation 2.26AB also apply to an applicant for a point-tested GSM visa to whom subregulation 2.26AB(2) applies.

Item [5] – Schedule 1, paragraph 1135(3)(b)

This item omits “less than 45.” and inserts “less than 50.” in paragraph 1135(3)(b) of item 1135 of Schedule 1 to the Principal Regulations.

This amendment provides that an applicant seeking to satisfy the primary criteria for a Skilled (Migrant) (Class VE) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Migrant) (Class VE) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Migrant) (Class VE) visa.

Item [6] – Schedule 1, subparagraphs 1136(4)(b)(i) and (ii)

This item substitutes subparagraphs 1136(4)(b)(i) and (ii) with new subparagraphs 1136(4)(b)(i) and (ii) in item 1136 of Schedule 1 to the Principal Regulations.

New subparagraph 1136(4)(b)(i) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Residence) (Class VB) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Residence) (Class VB) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Residence) (Class VB) visa.

New subparagraph 1136(4)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Residence) (Class VB) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1136(4)(b)(ii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C point test does not award points for occupational qualifications. As a consequence, it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Residence) (Class VB) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Residence) (Class VB) visa made before 1 July 2011.

Item [7] – Schedule 1, subparagraph 1136(5)(b)(ii)

This item substitutes subparagraph 1136(5)(b)(ii) with new subparagraph 1136(5)(b)(ii) in item 1136 of Schedule 1 to the Principal Regulations.

New subparagraph 1136(5)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Residence) (Class VB) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1136(5)(b)(ii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C point test does not award points for occupational qualifications. As a consequence, it is no longer

necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Residence) (Class VB) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Residence) (Class VB) visa made before 1 July 2011.

Item [8] – Schedule 1, subparagraphs 1136(6)(b)(ii) and (iii)

This item substitutes subparagraphs 1136(6)(b)(ii) and (iii) with new subparagraphs 1136(6)(b)(ii) and (iii) in item 1136 of Schedule 1 to the Principal Regulations.

New subparagraph 1136(6)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Residence) (Class VB) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Residence) (Class VB) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Residence) (Class VB) visa.

New subparagraph 1136(6)(b)(iii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Residence) (Class VB) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1136(6)(b)(iii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C points test does not award points for occupational qualifications. As a consequence, it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Residence) (Class VB) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Residence) (Class VB) visa made before 1 July 2011.

Item [9] – Schedule 1, subparagraph 1228(3)(b)(i)

This item substitutes subparagraph 1228(3)(b)(i) with new subparagraph 1228(3)(b)(i) in item 1228 of Schedule 1 to the Principal Regulations.

New subparagraph 1228(3)(b)(i) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Provisional) (Class VF) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VF) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an

applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Provisional) (Class VF) visa.

Item [10] – Schedule 1, subparagraphs 1229(4)(b)(i) and (ii)

This item substitutes subparagraphs 1229(4)(b)(i) and (ii) with new subparagraphs 1229(4)(b)(i) and (ii) in item 1229 of Schedule 1 to the Principal Regulations.

New subparagraph 1229(4)(b)(i) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Provisional) (Class VC) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Provisional) (Class VC) visa.

New subparagraph 1229(4)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1229(4)(b)(ii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C points test does not award points for occupational qualifications. As a consequence it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Provisional) (Class VC) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Provisional) (Class VC) visa made before 1 July 2011.

Item [11] – Schedule 1, subparagraph 1229(5)(b)(ii)

This item substitutes subparagraph 1229(5)(b)(ii) with new subparagraph 1229(5)(b)(ii) in item 1229 of Schedule 1 to the Principal Regulations.

New subparagraph 1229(5)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1229(5)(b)(ii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C points test does not award points for occupational qualifications. As a consequence, it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Provisional) (Class VC) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Provisional) (Class VC) visa made before 1 July 2011.

Item [12] – Schedule 1, subparagraphs 1229(6)(b)(ii) and (iii)

This item substitutes subparagraphs 1229(6)(b)(ii) and (iii) with new subparagraphs 1229(6)(b)(ii) and (iii) in item 1229 of Schedule 1 to the Principal Regulations.

New subparagraph 1229(6)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Provisional) (Class VC) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Provisional) (Class VC) visa.

New subparagraph 1229(6)(b)(iii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1229(6)(b)(iii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C points test does not award points for occupational qualifications. As a consequence, it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Provisional) (Class VC) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Provisional) (Class VC) visa made before 1 July 2011.

Item [13] – Schedule 1, subparagraphs 1229(7)(b)(i) and (ii)

This item substitutes subparagraphs 1229(7)(b)(i) and (ii) with new subparagraphs 1229(7)(b)(i) and (ii) in item 1229 of Schedule 1 to the Principal Regulations.

New subparagraph 1229(7)(b)(i) provides that an applicant seeking to satisfy the primary criteria for a Skilled (Provisional) (Class VC) visa must be less than 50 years of age.

This amendment increases the threshold age requirements for applicants seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa. The amendment recognises that, in many professions, experience and time plays a significant factor in an applicant's capacity to obtain occupational expertise. As a consequence, it is appropriate to recognise this and allow these applicants to make a valid application for a Skilled (Provisional) (Class VC) visa.

New subparagraph 1229(7)(b)(ii) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled (Provisional) (Class VC) visa must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for subparagraph 1229(7)(b)(ii).

This amendment is consequential to the insertion of item [26] which provides for the new Schedule 6C points test. Unlike the Schedule 6B points test, the new Schedule 6C points test does not award points for occupational qualifications. As a consequence, it is no longer necessary to prescribe that an applicant must nominate a skilled occupation for which a number of points are awardable.

It is the policy intention that the Minister will specify by way of the instrument in writing that an applicant for a Skilled (Provisional) (Class VC) visa to whom regulation 2.26AA applies is required to nominate a skilled occupation for which at least 50 points are available to satisfy the Schedule 1 requirements for the visa. This is consistent with the policy supporting applications for a Skilled (Provisional) (Class VC) visa made before 1 July 2011.

Item [14] – Schedule 2, clause 175.221, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 175.221 of Part 175 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [15] – Schedule 2, clause 176.221, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 176.221 of Part 176 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [16] – Schedule 2, clause 475.111, note 3

This item substitutes note 3 to clause 475.111 with a new note 3 to clause 475.111 of Part 475 of Schedule 2 to the Principal Regulations.

The new note 3 to clause 475.111 provides “For *competent English*, see regulation 1.15C.”

This amendment is consequential to the amendment made by item [17] which amends the standard of English an applicant for a Subclass 475 (Skilled – Regional Sponsored) visa from *concessional competent English* to *competent English*. The amendment provides that, at the time the application for a Subclass 475 (Skilled – Regional Sponsored) visa is made, the applicant must have *competent English*.

The purpose of this amendment is to give effect to the increase in the threshold English language requirements under the new Schedule 6C points test.

Item [17] – Schedule 2, clause 475.214

This item omits “*concessional*” from clause 475.214 of Part 475 to Schedule 2 to the Principal Regulations.

This amendment raises the threshold English requirement for an applicant for a Subclass 475 (Skilled – Regional Sponsored) visa from *concessional competent English* to *competent English*. The amendment provides that, at the time the application for a Subclass 475 (Skilled – Regional Sponsored) visa is made, the applicant must have *competent English*.

The purpose of this amendment is to give effect to the increase in the threshold English language requirements under the new Schedule 6C points test.

Item [18] – Schedule 2, clause 475.221, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 475.221 of Part 475 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [19] – Schedule 2, clause 487.111, note 3

This item substitutes note 3 to clause 487.111 with new note 3 to clause 487.111 of Part 487 of Schedule 2 to the Principal Regulations.

New note 3 to clause 487.111 provides “For *competent English*, see regulation 1.15C.”

This amendment is consequential to the amendment made by item [20] which amends the standard of English an applicant for a Subclass 487 (Skilled – Regional Sponsored) visa from *concessional competent English* to *competent English*. The amendment provides that, at the time the application for a Subclass 487 (Skilled – Regional Sponsored) visa is made, the applicant must have *competent English*.

Item [20] – Schedule 2, clause 487.215

This item substitutes clause 487.215 with new clause 487.215 of Part 487 to Schedule 2 to the Principal Regulations.

Currently clause 487.215 provides that, at the time of application, either:

- the applicant has concessional competent English; or
- the application is accompanied with evidence that they have made arrangements to undergo a language test specified by the Minister in an instrument in writing for paragraph 487.215(b).

New clause 487.215 provides that the applicant has competent English.

This amendment raises the threshold English requirement for an applicant for a Subclass 487 (Skilled – Regional Sponsored) visa from *concessional competent English* to *competent English*. The amendment also removes an applicant’s ability to provide evidence that they have made arrangements to undergo an alternative language test which has been specified by the Minister in an instrument in writing.

This amendment provides that, at the time an application for a Subclass 487 (Skilled – Regional Sponsored) visa is made, the applicant must have *competent English*.

The purpose of this amendment is to give effect to the increase in the threshold English language requirements under the new Schedule 6C points test.

Item [21] – Schedule 2, clause 487.222, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 487.222 of Part 487 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [22] – Schedule 2, clause 487.224

This item omits clause 487.224 from Part 487 of Schedule 2 to the Principal Regulations.

Currently, clause 487.224 provides that, if the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for paragraph 487.215(b), the applicant has concessional competent English.

This amendment is consequential to the amendment made by item [20]. Item [20] raises the threshold English requirement for an applicant for Subclass 487 (Skilled – Regional Sponsored) visa from *concessional competent English* to *competent English*. The amendment also removes an applicant’s ability to provide evidence that they have made arrangements to undergo an alternative language test which has been specified by the Minister in an instrument in writing.

Item [23] – Schedule 2, clause 885.221, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 885.221 of Part 885 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [24] – Schedule 2, clause 886.221, note

This item omits “Schedule 6B” and inserts “Schedules 6B and 6C” in the note to clause 886.221 of Part 886 of Schedule 2 to the Principal Regulations.

This amendment is consequential to the amendment made by item [26] which provides for the new Schedule 6C points test. This amendment notifies the reader that the prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedules 6B and 6C to the Principal Regulations.

Item [25] – Schedule 6B, heading

This item substitutes the heading to Schedule 6B with a new heading and note to Schedule 6B to the Principal Regulations.

The new heading to Schedule 6B provides for “General points test for General Skilled Migration visas – applications before 1 July 2011 and other specified applications (regulation 2.26AA)”.

The note to the new heading to Schedule 6B provides that “Regulation 2.26AA identifies the applications to which this Schedule applies.”

The purpose of this amendment is to clearly identify the applicants to whom Schedule 6B applies. These amendments are consequential to the amendments made by item [4], which insert an amended regulation 2.26AA and new regulation 2.26AB.

Item [26] – After Schedule 6B

This item inserts after Schedule 6B a new Schedule 6C – “General points test for General Skilled Migration visas – applications on or after 1 July 2011 and other specified applications (regulation 2.26AB)” to the Principal Regulations.

New Schedule 6C is inserted in the Principal Regulations pursuant to new regulation 2.26AB to the Principal Regulations as inserted by item [4] to this Schedule.

New regulation 2.26AB provides that, for the purposes of subsection 93(1) of the Act which provides that the Minister shall make an assessment by giving the applicant the prescribed number of points for each prescribed qualification that is satisfied in relation to the applicant, the prescribed qualifications are those set out in column 2 of an item in Schedule 6C, and the prescribed points are those set out in column 3 of the Schedule in respect of the relevant item.

The heading to new Schedule 6C provides for “General points test for General Skilled Migration visas – application on or after 1 July 2011 and other specified applications (regulation 2.26AB)”.

The note to the heading of new Schedule 6C provides that regulation 2.26AB identifies the applications to which Schedule 6C applies.

The purpose of this amendment is to distinguish and identify the applicants to whom new Schedule 6C applies in contrast to applicants who are subject to Schedule 6B.

Details of the qualifications and points prescribed that are prescribed under new Schedule 6C are as follows:

Part 6C.1 Age Qualifications

New Part 6C.1 of Schedule 6C to the Principal Regulations provides for age qualifications and number of points awardable for each qualification under Schedule 6C.

This Part has four items; 6C11, 6C12, 6C13, and 6C14. The qualifications prescribed by the items, and the points available for applicants who satisfy the relevant age qualifications are as follows:

- item 6C11 provides 25 points for applicants aged not less than 18 and under 25 at time of application.
- item 6C12 provides 30 points for applicants aged not less than 25 and under 33 at the time of application.
- item 6C13 provides 25 points for applicants aged not less than 33 and under 40 at the time of application.
- item 6C14 provides 15 points for applicants aged not less than 40 and under 45 at the time of application.

The new Part 6C.1 provides for a more targeted allocation of points on the basis of the applicant's age on the day of their application for a GSM visa.

This amendment recognises an applicant's age and their potential lifetime earnings and contribution to Australia. However, this amendment also recognises that, in many professions, experience and time play a significant factor in an applicant's capacity to obtain occupational expertise.

As a consequence, no points are awarded under this Part for applicants who are aged between 45 and 49, as it is intended that only applicants who fall within this age group and who have exceptional claims against other criteria will be able to satisfy the requirements for grant of a visa. However, these applicants are permitted to make an application for a GSM visa by way of the amendments made by items [5], [6], [8], [9], [10], [12], and [13] to this Schedule which raises the maximum age threshold for new applicants for a GSM visa from less than 45 to less than 50.

Part 6C.2 English language qualifications

This Part has two items; 6C21 and 6C22. The qualifications prescribed by the items and the points available for applicants who satisfy the relevant English language qualifications are as follows:

- item 6C21 provides 20 points for applicants assessed as having superior English. (See regulation 1.15EA in Division 1.2 of Part 1 to the Principal Regulations for the definition of superior English. This definition is inserted by item [2] of Schedule 1 to these Regulations.)
- item 6C22 provides 10 points for applicants assessed as having proficient English. (See regulation 1.15D in Division 1.2 of Part 1 to the Principal Regulations for the

definition of proficient English. This definition is amended by item [2] of Schedule 1 to these Regulations.)

The new Part 6C.2 provides for a more targeted allocation of points on the basis of the applicant's English language proficiency. Applicants assessed as having higher English language proficiency are awarded a higher number of points under the Schedule 6C points test. Unlike the Schedule 6B points test, applicants with competent English are not be awarded points under this Part. This supports the increase in the threshold English language requirement for GSM visa applicants after 1 July 2011 to competent English (see regulation 1.15C of Part 1 to the Principal Regulations).

These changes reflect the value placed on applicants with higher levels of English language skills and their likelihood to successfully secure skilled employment in the Australian labour market.

Part 6C.3 Overseas employment experience qualifications

This Part has three items; 6C31, 6C32, and 6C33. The qualifications prescribed by the items and the points available for applicants who satisfy the relevant overseas employment experience qualifications are as follows:

- item 6C31 provides 5 points for applicants who have been employed outside Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 36 months in the 10 years immediately before the day on which the application was made;
- item 6C32 provides 10 points for applicants who have been employed outside Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 60 months in the 10 years immediately before the day on which the application was made; and
- item 6C33 provides 15 points for applicants who have been employed outside Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 96 months in the 10 years immediately before the day on which the application was made.

The note to Part 6C.3 directs the reader to see Part 6C.5. Part 6C.5 provides for the aggregation of points for employment experience qualifications under Parts 6C.3 and 6C.4 to the new Schedule 6C, which is inserted by item [26] of Schedule 1 to these Regulations.

Part 6C.3 provides for the higher award of points for applicants who have extensive skilled work experience outside of Australia on a scale increasing in relation to the number of months of work experience the applicant has attained within the 10 year period immediately before the day on which the application for the GSM visa was made.

These amendments recognise that applicants with skilled employment experience generally perform better in the Australian labour market and their potential to secure skilled employment with higher salary levels soon after arrival in Australia.

Part 6C.4 Australian employment experience qualifications

This Part has four items; 6C41, 6C42, 6C43 and 6C44. The qualifications prescribed by the items and the points available for applicant who satisfy the relevant Australian employment experience qualifications are as follows:

- item 6C41 provides 5 points for applicants who have been employed in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 10 years immediately before the day on which the application was made;
- item 6C42 provides 10 points for applicants who have been employed in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 36 months in the 10 years immediately before the day on which the application was made;
- item 6C43 provides 15 points for applicants who have been employed in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 60 months in the 10 years immediately before the day on which the application was made; and
- item 6C44 provides 20 points for applicants who have been employed in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 96 months in the 10 years immediately before the day on which the application was made.

The note to Part 6C.4 directs the reader to see Part 6C.5. Part 6C.5 provides for the aggregation of points for employment experience qualifications under Parts 6C.3 and 6C.4 to the new Schedule 6C, which are inserted by item [26] of Schedule 1 to these Regulations.

Part 6C.4 provides for the greater award of points for applicants who have extensive skilled work experience in Australia on a scale increasing in relation to the number of months of work experience the applicant has attained within the 10 year period immediately before the day on which the application for the GSM visa was made.

These amendments recognise the value that an understanding of the Australian labour market and work environment provides in assisting applicants to maximise their contribution to the Australian economy and society.

Part 6C.5 Aggregating points for employment experience qualifications under Parts 6C.3 and 6C.4

Part 6C.5 provides for the aggregation of points for employment experience qualifications under Parts 6C.3 and 6C.4. Part 6C.5 has one item; 6C51.

Subitem 6C51(1) provides that if an applicant has a qualification mentioned in Part 6C.3 and a qualification mentioned in Part 6C.4, and the combined number of points that is awarded under those Parts for the qualifications is more than 20 points:

- the Minister must give the applicant 20 points under Part 6C.5 for the qualifications; and
- no points are to be given under Part 6C.3 or 6C.4.

Subitem 6C51(2) provides that 20 points is the prescribed number of points for the combination of qualifications.

Part 6C.5 provides that applicants who have a combination of overseas and Australian work experience and the total number of points awardable under both Parts 6C.3 and 6C.4 is more than 20 points, the applicant must be awarded 20 points under Part 6C.5 and no points under Parts 6C.3 and 6C.4. Part 6C.5 provides that, the maximum number of points awardable for work experience qualifications, whether overseas or in Australia, or a combination of the two, is 20.

For example, an applicant who has nominated nursing as their skilled occupation and who has 60 months overseas work experience, along with an additional 60 months work experience in Australia in this field, could be awarded points under both Part 6C.3 and 6C.4. However, the application of Part 6C.5 means that the applicant is only entitled to a maximum of 20 points, despite the fact that their experience would total 25 points if Part 6C.5 did not apply (10 points for the overseas work experience and 15 points for the Australian work experience).

These amendments limit the total number of points available for a combination of Australian and overseas work experience and is consistent with the overall policy objective supporting Schedule 6C as a mechanism for selecting applicants who present an optimal mix of attributes across a range of qualifications and to ensure that disproportionate weight is not given to any one qualification.

Part 6C.6 Australian professional year qualifications

This Part has one item; 6C61. The qualification prescribed by item 6C61 and the points available for applicants who satisfy the relevant Australian professional year qualifications are as follows:

- item 6C61 provides 5 points for applicants who have completed a professional year in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made.

The award of points under this Part is consistent with the award of points for Australian employment qualifications under item 6B52 of Part 6B.5 of Schedule 6B to the Principal Regulations. However, under the Schedule 6C points test, 5 points are awardable, as compared to the 10 points awardable under the Schedule 6B point test. The reduced number of points awardable for this qualification under the Schedule 6C points test reflects the same proportion of points that are available under the Schedule 6B points test for a qualification of this type.

Part 6C.7 Educational qualifications

This Part has six items; 6C71, 6C72, 6C73, 6C74, 6C75 and 6C76. The qualifications prescribed by the items and the points available for applicants who satisfy the relevant educational qualifications are as follows:

- item 6C71 provides 20 points for applicants who have met the requirements for the award of a doctorate by an Australian educational institution, or the award of a

doctorate, by another educational institution, that the Minister is satisfied is of a recognised standard;

- item 6C72 provides 15 points for applicants who have met the requirements for the award of at least a bachelor degree by an Australian educational institution, or the award of at least a bachelor degree by another educational institution, that the Minister is satisfied is of a recognised standard;
- item 6C73 provides 10 points for applicants who have met the requirements for the award of a diploma by an Australian educational institution;
- item 6C74 provides 10 points for applicants who have met the requirements for the award of a trade qualification by an Australian education institution; and
- item 6C75 provides 10 points for applicants who have attained a qualification or award recognised by the relevant assessing authority for the applicant’s nominated skilled occupation as being suitable for the occupation.

These amendments provides for the allocation of points for the highest level of education attained by the applicant. The amendments also recognise the correlation between the level of qualification obtained by the applicant and the potential for success in the Australian labour market in terms of obtaining skilled employment and higher salaries.

Item 6C76 provides that, for items 6C71 and 6C72, the Minister must have regard to certain matters for the purpose of being satisfied that a qualification is of a recognised standard.

These matters are:

- whether the qualification has been recognised by the relevant assessing authority for the applicant’s nominated skilled occupation as being suitable for the occupation;
- whether the qualification has been recognised by another body, specified by the Minister in an instrument in writing for paragraph 6C76(b);
- any other matter relevant to the consideration of the qualification, including the duration of the study.

These amendments provide that in making a decision about whether or not a qualification is of a “recognised standard” comparable to an educational qualification awarded by an Australian educational institution, the Minister must have regard to the matters listed in paragraphs 6C76(a) to (c).

Part 6C.8 Australian study qualifications

This Part has one item; 6C81. The qualification prescribed by item 6C81 and the points available for applicants who satisfy the relevant Australian study qualifications are as follows:

- item 6C81 provides 5 points for each degree, diploma and trade qualification that has been awarded to the applicant by an Australian educational institution and used by the applicant to meet the Australian study requirement, that is closely related to the applicant’s nominated skilled occupation.

The award of points under this Part is consistent with the award of points for Australian study qualifications under item 6B64 of Part 6B.4 of Schedule 6B to the Principal Regulations.

Part 6C.9 Credentialed community language qualifications

This Part has one item; 6C91. The qualification prescribed by item 6C91 and the points available for applicants who satisfy the relevant credentialed community language qualifications are as follows:

- item 6C91 provides 5 points for applicants who have a qualification in a particular language awarded or accredited by a body specified by the Minister in an instrument in writing for item 6C91, and at a standard for the language specified in the instrument.

The award of points under this Part is consistent with the award of points for designated language qualifications under Part 6B.8 of Schedule 6B to the Principal Regulations.

This amendment provides for the award of 5 points for applicants who have obtained a qualification in a language which was awarded or accredited by a body specified by the Minister by way of written instrument.

Part 6C.10 Study in regional Australia or a low-population growth metropolitan area qualifications

This Part has one item; 6C101. The qualification prescribed by item 6C101 and the points available for applicants who satisfy the relevant study in regional Australia or a low-population growth metropolitan area qualifications are as follows:

- item 6C101 provides 5 points for applicants to whom each of the following applies:
 - the applicant meets the Australian study requirement;
 - the location of the campus or campuses at which that study was undertaken is specified by the Minister in an instrument in writing for paragraph (b) of item 6A1001 in Schedule 6A to the Principal Regulations;
 - while the applicant undertook the course of study the applicant living in a part of Australia the postcode of which is specified by the Minister in an instrument in writing for paragraph (c) of item 6A1001 in Schedule 6A to the Principal Regulations;
 - none of the study undertaken constituted distance education.

The award of points under this Part is consistent with the award of points for study in regional Australia or a low-population growth metropolitan area qualification under Part 6B.9 of Schedule 6B to the Principal Regulations.

Part 6C.11 Partner skill qualifications

This Part has one item; 6C111. The qualification prescribed by item 6C111 and the points available for applicants who satisfy the partner skill qualifications are as follows:

- item 6C111 provides 5 points for a spouse or de facto partner of the applicant (the primary applicant) who:
 - is an applicant for the same subclass of visa as the primary applicant; and
 - is not an Australian permanent resident or Australian citizen; and
 - is under 50 at the time of application; and

- has nominated a skilled occupation in his or her application being an occupation that was specified in the same version of the instrument made by the Minister under paragraph 1.15I(1)(a) as was used when the primary applicant made his or her application; and
- has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and
- has competent English; and
- either:
 - has met the Australian study requirement:
 - in the period of 6 months ending immediately before the day the application was made; and
 - in circumstances in which each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or
 - at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day.

The award of points under this Part is consistent with the award of points for partner skill qualifications under Part 6B.10 of Schedule 6B to the Principal Regulations.

Part 6C.12 State or Territory nomination qualifications

This Part has one item; 6C121. The qualification prescribed by item 6C121 and the points available for applicants who satisfy the State or Territory nomination qualifications are as follows:

- item 6C121 provides 5 points for applicants who:
 - have applied for:
 - a Subclass 176 (Skilled – Sponsored) visa; or
 - a Subclass 886 (Skilled – Sponsored) visa; and
 - has been nominated by a State or Territory government agency for the purposes of the visa application;

and the Minister has accepted the nomination.

Unlike Part 6B.11, Part 6C.12 only allows the allocation of points if the applicant has applied for a Subclass 176 (Skilled – Sponsored) or a Subclass 886 (Skilled – Sponsored) visa and has been nominated by a State or Territory government agency for the purposes of the visa application and the Minister has accepted the nomination. Applicants who apply for a Subclass 475 (Skilled – Regional Sponsored) visa or a Subclass 487 (Skilled – Regional Sponsored) visa and are nominated by a State or Territory government agency are eligible for points under Part 6C.13, in circumstances where the Minister has accepted the nomination.

The award of points under this Part is consistent with the award of points for State or Territory nomination qualifications under Part 6B.11 of Schedule 6B to the Principal Regulations. However, under the Schedule 6C points test, 5 points are awardable, as

compared to the 10 points awardable under the Schedule 6B point test. The reduced number of points awardable for this qualification under the Schedule 6C points test reflects the same proportion of points that are available under the Schedule 6B points test for a qualification of this type.

Part 6C.13 Designated area sponsorship qualifications

This Part has one item; 6C131. The qualification prescribed by item 6C131 and the points available for applicants who satisfy the designated area sponsorship qualifications are as follows:

- item 6C131 provides 10 points for applicants who:
 - have applied for:
 - a Subclass 475 (Skilled – Regional Sponsored) visa; or
 - a Subclass 487 (Skilled – Regional Sponsored) visa; and
 - for the purposes of the visa application, has been:
 - nominated by a State or Territory government agency; or
 - sponsored by a family member;

and the Minister has accepted the nomination or sponsorship.

The award of points under this Part is consistent with the award of points for designated area sponsorship qualifications under Part 6B.12 of Schedule 6B to the Principal Regulations. However, under the Schedule 6C points test 10 points are awardable, as compared to the 25 points awardable under the Schedule 6B point test. The reduced number of points awardable for this qualification under the Schedule 6C points test reflects a similar proportion of points that are available under the Schedule 6B points test for a qualification of this type.