



# Migration Amendment Regulations 2011 (No. 3)<sup>1</sup>

**Select Legislative Instrument 2011 No. 74**

---

I, PROFESSOR MARIE BASHIR, AC, CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 2 June 2011

MARIE BASHIR  
Administrator

By Her Excellency's Command

CHRIS BOWEN  
Minister for Immigration and Citizenship

---

**1 Name of Regulations**

These Regulations are the *Migration Amendment Regulations 2011 (No. 3)*.

**2 Commencement**

These Regulations commence on 1 July 2011.

**3 Amendment of *Migration Regulations 1994***

(1) Schedule 1 amends the *Migration Regulations 1994*.

(2) 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 *Migration Regulations 1994*) made on or after 1 July 2011.

*Note* Items [4], [25] and [26] insert provisions in the *Migration Regulations 1994* 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**

(subregulation 3 (1))

**[1] Regulation 1.03, after definition of *substituted Subclass 676 visa***

*insert*

*superior English* has the meaning given by regulation 1.15EA.

---

**[2] Regulations 1.15C to 1.15E**

*substitute*

**1.15C Competent English**

If a person applies for a General Skilled Migration visa, the person has *competent English* if the person:

- (a) satisfies the Minister that:
  - (i) the person undertook a language test, specified by the Minister in an instrument in writing for this subparagraph; and
  - (ii) the test was conducted in the 2 years immediately before the day on which the application was made; and
  - (iii) the person achieved a score specified in the instrument; or
- (b) satisfies the Minister that the person holds a passport of a type specified by the Minister in an instrument in writing for this paragraph.

**1.15D Proficient English**

If a person applies for a General Skilled Migration visa, the person has *proficient English* if the person satisfies the Minister that:

- (a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and
- (b) the test was conducted in the 2 years immediately before the day on which the application was made; and
- (c) the person achieved a score specified in the instrument.

**1.15E Concessional competent English**

If a person applies for a General Skilled Migration visa, the person has *concessional competent English* if the person satisfies the Minister that:

- (a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and
- (b) the test was conducted in the 2 years immediately before the day on which the application was made; and
- (c) the person achieved a score specified in the instrument.

**1.15EA Superior English**

If a person applies for a General Skilled Migration visa, the person has *superior English* if the person satisfies the Minister that:

- (a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and
- (b) the test was conducted in the 2 years immediately before the day on which the application was made; and
- (c) the person achieved a score specified in the instrument.

**[3] Subregulation 1.15I (1)**

*substitute*

- (1) A *skilled occupation*, in relation to a person, means an occupation of a kind:
  - (a) that is specified by the Minister in an instrument in writing to be a skilled occupation; and
  - (b) if a number of points are specified in the instrument as being available — for which the number of points are available; and
  - (c) that is applicable to the person in accordance with the specification of the occupation.

---

**[4] Regulation 2.26AA**

*substitute*

**2.26AA Prescribed qualifications and number of points for certain applications for General Skilled Migration visas**

- (1) This regulation applies to an applicant for a points-tested General Skilled Migration visa if the application was made, but not finally determined (within the meaning of subsection 5 (9) of the Act), before 1 July 2011.
- (2) This regulation also applies to an applicant for a points-tested General Skilled Migration visa if:
  - (a) the applicant is a person, or a person in a class of persons, specified in an instrument in writing made by the Minister for this paragraph; and
  - (b) the application is made on or after 1 July 2011 but before 1 January 2013.
- (3) 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 General Skilled Migration visa for which the applicant applied.
- (4) However, if, apart from this subregulation, 1 or more of the qualifications in Parts 6B.11 and 6B.12 of Schedule 6B would apply in determining the applicant's points score:
  - (a) only 1 of the items is to apply in determining the applicant's points score; and
  - (b) the item that specifies the greater or greatest points is to be used.
- (5) The number of points specified in an item of Schedule 6B is prescribed for the qualification specified in the item.
- (6) For subsection 93 (1) of the Act:
  - (a) the Minister must not give the applicant a prescribed number of points for more than 1 prescribed qualification in each Part of Schedule 6B; and

- (b) if the applicant's circumstances satisfy more than 1 prescribed qualification, the Minister must give the applicant the prescribed number of points that is the highest for any of the prescribed qualifications; and
  - (c) 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
  - (d) 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.
- (7) 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 is more favourable to the applicant:
- (a) the occupations that were specified as migration occupations in demand at the time the application was made;
  - (b) the occupations that are specified as migration occupations in demand at the time the assessment mentioned in subsection 93 (1) of the Act is made.
- (8) In this regulation:
- points-tested General Skilled Migration visa*** means a General Skilled Migration visa of any of the following subclasses:
- (a) Subclass 175 (Skilled — Independent);
  - (b) Subclass 176 (Skilled — Sponsored);
  - (c) Subclass 475 (Skilled — Regional Sponsored);
  - (d) Subclass 487 (Skilled — Regional Sponsored);
  - (e) Subclass 885 (Skilled — Independent);
  - (f) Subclass 886 (Skilled — Sponsored).
- (9) In Schedule 6B:
- degree*** has the meaning given by subregulation 2.26A (6).

---

*diploma* has the meaning given by subregulation 2.26A (6).

*employed* has the meaning given by subregulation 2.26A (7).

*professional year* means a course specified by the Minister in an instrument in writing for this definition.

*trade qualification* has the meaning given by subregulation 2.26A (6).

**2.26AB Prescribed qualifications and number of points for other applications for General Skilled Migration visas**

- (1) This regulation applies to an applicant for a points-tested General Skilled Migration visa if:
  - (a) the application is made on or after 1 July 2011; and
  - (b) subregulation 2.26AA (2) does not apply.
- (2) This regulation also applies to an applicant for a points-tested General Skilled Migration visa if:
  - (a) the applicant is a person, or a person in a class of persons, specified by the Minister in an instrument in writing for this paragraph; and
  - (b) the application is made on or after 1 July 2011 but before 1 January 2013; and
  - (c) the applicant's score is assessed in accordance with Schedule 6B for section 93 of the Act; and
  - (d) 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.
- (3) 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 General Skilled Migration visa for which the applicant applied.
- (4) 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.

*Note* 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.

(5) For subsection 93 (1) of the Act:

- (a) the Minister must not give the applicant a prescribed number of points for more than 1 prescribed qualification in each Part of Schedule 6C; and
- (b) if the applicant's circumstances satisfy more than 1 prescribed qualification, the Minister must give the applicant the prescribed number of points that is the highest for any of the prescribed qualifications.

*Note* 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.

(6) In this regulation:

***points-tested General Skilled Migration visa*** means a General Skilled Migration visa of any of the following subclasses:

- (a) Subclass 175 (Skilled — Independent);
- (b) Subclass 176 (Skilled — Sponsored);
- (c) Subclass 475 (Skilled — Regional Sponsored);
- (d) Subclass 487 (Skilled — Regional Sponsored);
- (e) Subclass 885 (Skilled — Independent);
- (f) Subclass 886 (Skilled — Sponsored).

(7) In Schedule 6C:

***degree*** has the meaning given by subregulation 2.26A (6).

***diploma*** has the meaning given by subregulation 2.26A (6).

***employed*** has the meaning given by subregulation 2.26A (7).

***professional year*** means a course specified by the Minister in an instrument in writing for this definition.

***trade qualification*** has the meaning given by subregulation 2.26A (6).

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

*omit*

less than 45.

*insert*

less than 50.



**[6] Schedule 1, subparagraphs 1136 (4) (b) (i) and (ii)***substitute*

- (i) must be less than 50; and
- (ii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[7] Schedule 1, subparagraph 1136 (5) (b) (ii)***substitute*

- (ii) nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[8] Schedule 1, subparagraphs 1136 (6) (b) (ii) and (iii)***substitute*

- (ii) must be less than 50; and
- (iii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[9] Schedule 1, subparagraph 1228 (3) (b) (i)***substitute*

- (i) must be less than 50; and

**[10] Schedule 1, subparagraphs 1229 (4) (b) (i) and (ii)***substitute*

- (i) must be less than 50; and
- (ii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[11] Schedule 1, subparagraph 1229 (5) (b) (ii)***substitute*

- (ii) nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[12] Schedule 1, subparagraphs 1229 (6) (b) (ii) and (iii)***substitute*

- (ii) must be less than 50; and
- (iii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[13] Schedule 1, subparagraphs 1229 (7) (b) (i) and (ii)***substitute*

- (i) must be less than 50; and
- (ii) must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this subparagraph.

**[14] Schedule 2, clause 175.221, note***omit*

Schedule 6B

*insert*

Schedules 6B and 6C

**[15] Schedule 2, clause 176.221, note***omit*

Schedule 6B

*insert*

Schedules 6B and 6C

---

**[16] Schedule 2, clause 475.111, note 3**

*substitute*

*Note 3* For *competent English*, see regulation 1.15C.

**[17] Schedule 2, clause 475.214**

*omit*

concessional

**[18] Schedule 2, clause 475.221, note**

*omit*

Schedule 6B

*insert*

Schedules 6B and 6C

**[19] Schedule 2, clause 487.111, note 3**

*substitute*

*Note 3* For *competent English*, see regulation 1.15C.

**[20] Schedule 2, clause 487.215**

*substitute*

487.215 The applicant has competent English.

**[21] Schedule 2, clause 487.222, note**

*omit*

Schedule 6B

*insert*

Schedules 6B and 6C

**[22] Schedule 2, clause 487.224**

*omit*

**[23] Schedule 2, clause 885.221, note**

*omit*

Schedule 6B

*insert*

Schedules 6B and 6C

**[24] Schedule 2, clause 886.221, note**

*omit*

Schedule 6B

*insert*

Schedules 6B and 6C

**[25] Schedule 6B, heading**

*substitute*

**Schedule 6B General points test for  
General Skilled Migration  
visas — applications before  
1 July 2011 and other  
specified applications**

(regulation 2.26AA)

*Note* Regulation 2.26AA identifies the applications to which this Schedule applies.

**[26] After Schedule 6B***insert*

**Schedule 6C      General points test for  
General Skilled Migration  
visas — applications on or  
after 1 July 2011 and other  
specified applications**

(regulation 2.26AB)

*Note* Regulation 2.26AB identifies the applications to which this Schedule applies.**Part 6C.1      Age qualifications**

<b>Column 1 Item</b>	<b>Column 2 The applicant's age at time of application is ...</b>	<b>Column 3 No. of points</b>
6C11	not less than 18 and under 25	25
6C12	not less than 25 and under 33	30
6C13	not less than 33 and under 40	25
6C14	not less than 40 and under 45	15

**Part 6C.2      English language qualifications**

<b>Column 1 Item</b>	<b>Column 2 The applicant has ...</b>	<b>Column 3 No. of points</b>
6C21	superior English	20
6C22	proficient English	10

### Part 6C.3 Overseas employment experience qualifications

Column 1 Item	Column 2 The applicant has been employed outside Australia ...	Column 3 No. of points
6C31	in: (a) the applicant's nominated skilled occupation; or (b) 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	5
6C32	in: (a) the applicant's nominated skilled occupation; or (b) 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	10
6C33	in: (a) the applicant's nominated skilled occupation; or (b) 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	15

*Note* See Part 6C.5

### Part 6C.4 Australian employment experience qualifications

Column 1 Item	Column 2 The applicant has been employed in Australia ...	Column 3 No. of points
6C41	in: (a) the applicant's nominated skilled occupation; or (b) 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	5

Column 1 Item	Column 2 The applicant has been employed in Australia ...	Column 3 No. of points
6C42	in: (a) the applicant's nominated skilled occupation; or (b) 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	10
6C43	in: (a) the applicant's nominated skilled occupation; or (b) 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	15
6C44	in: (a) the applicant's nominated skilled occupation; or (b) 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	20

*Note* See Part 6C.5

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

- 6C51 (1) 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 would be awarded under those Parts for the qualifications is more than 20 points:
- (a) the Minister must give the applicant 20 points under this Part for the qualifications; and
  - (b) no points are given under Part 6C.3 or 6C.4.
- (2) The prescribed number of points for the combination of qualifications is 20.

## Part 6C.6 Australian professional year qualifications

Column 1 Item	Column 2 The applicant has completed a professional year in Australia ...	Column 3 No. of points
6C61	in: <ul style="list-style-type: none"> <li>(a) the applicant's nominated skilled occupation; or</li> <li>(b) a closely related skilled occupation;</li> </ul> for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made	5

## Part 6C.7 Educational qualifications

Column 1 Item	Column 2 The applicant has ...	Column 3 No. of points
6C71	met the requirements for: <ul style="list-style-type: none"> <li>(a) the award of a doctorate by an Australian educational institution; or</li> <li>(b) the award of a doctorate, by another educational institution, that the Minister is satisfied is of a recognised standard</li> </ul>	20
6C72	met the requirements for: <ul style="list-style-type: none"> <li>(a) the award of at least a bachelor degree by an Australian educational institution; or</li> <li>(b) the award of at least a bachelor degree by another educational institution, that the Minister is satisfied is of a recognised standard</li> </ul>	15
6C73	met the requirements for the award of a diploma by an Australian educational institution	10
6C74	met the requirements for the award of a trade qualification by an Australian educational institution	10
6C75	attained a qualification or award recognised by the relevant assessing authority for the applicant's nominated skilled occupation as being suitable for the occupation	10



- 6C76 For items 6C71 and 6C72, the Minister must have regard to the following matters for the purpose of being satisfied that a qualification is of a recognised standard:
- (a) whether the qualification has been recognised by the relevant assessing authority for the applicant's nominated skilled occupation as being suitable for the occupation;
  - (b) whether the qualification has been recognised by another body, specified by the Minister in an instrument in writing for this paragraph;
  - (c) any other matter relevant to the consideration of the qualification, including the duration of the applicant's study.

### Part 6C.8 Australian study qualifications

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C81	Each degree, diploma and trade qualification that has been: <ol style="list-style-type: none"> <li>(a) awarded to the applicant by an Australian educational institution; and</li> <li>(b) used by the applicant to meet the Australian study requirement;</li> </ol> is closely related to the applicant's nominated skilled occupation	5

### Part 6C.9 Credentialed community language qualifications

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C91	The applicant has a qualification in a particular language: <ol style="list-style-type: none"> <li>(a) awarded or accredited by a body specified by the Minister in an instrument in writing for this item; and</li> <li>(b) at a standard for the language specified in the instrument</li> </ol>	5

---

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

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C101	<p>Each of the following paragraphs applies in relation to the applicant:</p> <ul style="list-style-type: none"> <li>(a) the applicant meets the Australian study requirement;</li> <li>(b) 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 of Schedule 6A;</li> <li>(c) while the applicant undertook the course of study the applicant lived 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 of Schedule 6A;</li> <li>(d) none of the study undertaken constituted distance education</li> </ul>	5

---

### Part 6C.11 Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C111	<p>The spouse or de facto partner of the applicant (the <i>primary applicant</i>):</p> <ul style="list-style-type: none"> <li>(a) is an applicant for the same subclass of visa as the primary applicant; and</li> <li>(b) is not an Australian permanent resident or an Australian citizen; and</li> <li>(c) is under 50 at the time of application; and</li> <li>(d) 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</li> </ul>	5

Column 1 Item	Column 2 Qualification	Column 3 No. of points
	<ul style="list-style-type: none"> <li>(e) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and</li> <li>(f) has competent English; and</li> <li>(g) either:               <ul style="list-style-type: none"> <li>(i) has met the Australian study requirement:                   <ul style="list-style-type: none"> <li>(A) in the period of 6 months ending immediately before the day the application was made; and</li> <li>(B) 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</li> </ul> </li> <li>(ii) 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</li> </ul> </li> </ul>	

### Part 6C.12 State or Territory nomination qualifications

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C121	<p>The applicant:</p> <ul style="list-style-type: none"> <li>(a) has applied for:               <ul style="list-style-type: none"> <li>(i) a Subclass 176 (Skilled — Sponsored) visa; or</li> <li>(ii) a Subclass 886 (Skilled — Sponsored) visa; and</li> </ul> </li> <li>(b) has been nominated by a State or Territory government agency for the purposes of the visa application;</li> </ul> <p>and the Minister has accepted the nomination</p>	5

---

### Part 6C.13 Designated area sponsorship qualifications

Column 1 Item	Column 2 Qualification	Column 3 No. of points
6C131	<p>The applicant:</p> <p>(a) has applied for:</p> <p>(i) a Subclass 475 (Skilled — Regional Sponsored) visa; or</p> <p>(ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and</p> <p>(b) has been:</p> <p>(i) nominated by a State or Territory government agency; or</p> <p>(ii) sponsored by a family member; for the purposes of the visa application;</p> <p>and the Minister has accepted the nomination or sponsorship</p>	10

---

#### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.