



Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014

Select Legislative Instrument No. 163, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 30 October 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Scott Morrison
Minister for Immigration and Border Protection

OPC60723 - A

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1 Name

This is the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014*.

2 Commencement

Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information	
Column 1	Column 2
Provisions	Commencement
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.
2. Schedules 1 to 5	23 November 2014.
3. Schedule 6, item 1	The later of: (a) 23 November 2014; and (b) the day after the <i>Australian Citizenship Amendment (Intercountry Adoption) Act 2014</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.
4. Schedule 6, item 2	3 November 2014.
5. Schedule 6, item 3	1 January 2015.
6. Schedules 7 and 8	23 November 2014.

3 Authority

This instrument is made under the following Acts:

- (a) the *Australian Citizenship Act 2007*;
- (b) the *Migration Act 1958*.

Schedule 1—Subclass 400 visas

Migration Regulations 1994

1 Clause 400.111 of Schedule 2 (paragraph (a) of the definition of *non-ongoing*)

Omit “3”, substitute “6”.

2 Paragraph 400.511(a) of Schedule 2

Omit “3”, substitute “6”.

3 Subparagraph 400.511(b)(i) of Schedule 2

Omit “3”, substitute “6”.

Schedule 2—Passenger cards

Migration Regulations 1994

1 Division 3.1 (heading)

Repeal the heading, substitute:

Division 3.1—Information to be given

2 Paragraph 3.01(3)(b)

Repeal the paragraph, substitute:

- (b) if the person is arriving in Australia—provide the completed passenger card to an officer; and
- (c) if the person is departing Australia—either:
 - (i) provide the completed passenger card to an officer or an authorised system; or
 - (ii) deposit the completed passenger card at a place of a kind specified in a legislative instrument made by the Minister for this subparagraph.

3 Regulation 3.02 (heading)

Repeal the heading, substitute:

3.02 Passenger cards for persons entering Australia

4 Subregulation 3.02(1)

After “card”, insert “for a person entering Australia”.

5 Subregulation 3.02(3)

Omit “A”, substitute “The”.

Schedule 3—Disclosure of information to CrimTrac

Migration Regulations 1994

1 Regulation 1.03

Insert:

CNI number means a central names index number generated by the National Automated Fingerprint Identification System maintained by or on behalf of CrimTrac.

CrimTrac means the CrimTrac Agency, established as an Executive Agency by the Governor-General by order under section 65 of the *Public Service Act 1999*.

2 Regulation 5.34F (heading)

Repeal the heading, substitute:

5.34F Disclosure of information to police and CrimTrac

3 Subregulation 5.34F(2)

Omit all the words after “persons;”, substitute:

to the following:

- (a) the Australian Federal Police;
- (b) the police force or police service of a State or Territory;
- (c) CrimTrac.

4 At the end of subregulation 5.34F(4)

Add:

- ; (f) the CNI number of the person or persons;
- (g) the client number of the person or persons.

Schedule 4—Subclass 572 and Subclass 573 visas and other matters

Part 1—Extending streamlined visa processing

Migration Regulations 1994

1 Before subparagraph 1.40A(2)(b)(i)

Insert:

- (ia) an applicant for a Subclass 572 (Vocational Education and Training Sector) visa who would be an eligible vocational education and training student within the meaning of Part 572 of Schedule 2; or

2 Before paragraph 1.41(1A)(a)

Insert:

- (aa) an applicant for a Subclass 572 (Vocational Education and Training Sector) visa who is an eligible vocational education and training student within the meaning of Part 572 of Schedule 2; or

3 Before paragraph 1.42(7)(a)

Insert:

- (aa) an applicant for a Subclass 572 (Vocational Education and Training Sector) visa who is an eligible vocational education and training student within the meaning of Part 572 of Schedule 2; or

4 Clause 572.111 of Schedule 2

Insert:

educational business partner, in relation to an eligible education provider, means an education provider specified as an educational business partner in an instrument made under clause 572.112.

eligible education provider means an education provider specified as an eligible education provider in an instrument made under clause 572.112.

eligible vocational education and training student means an applicant for a Subclass 572 visa in relation to whom the following apply:

- (a) the applicant is enrolled in a principal course of study for the award of an advanced diploma in the vocational education and training sector;
- (b) the principal course of study is provided by an eligible education provider;
- (c) if the applicant proposes to undertake another course of study before, and for the purposes of, the principal course of study:
 - (i) the applicant is also enrolled in that course; and
 - (ii) that course is provided by the eligible education provider or an educational business partner of the eligible education provider.

5 At the end of Division 572.1 of Schedule 2

Add:

572.112

For this Part, the Minister may, by legislative instrument:

- (a) specify an education provider as an eligible education provider; and
- (b) specify one or more other education providers as educational business partners of the education provider mentioned in paragraph (a).

6 At the end of subdivision 572.21

Add:

572.212

If the applicant is an eligible vocational education and training student, the applicant must have a confirmation of enrolment in each course of study for which the applicant is an eligible vocational education and training student.

7 Paragraph 572.223(1)(b) of Schedule 2

After “subclause”, insert “(1A) or”.

8 After subclause 572.223(1) of Schedule 2

Insert:

- (1A) If the applicant is, and was, at the time of application, an eligible vocational education and training student who has a confirmation of enrolment in each course of study for which the applicant is an eligible vocational education and training student:
- (a) the applicant gives the Minister evidence that the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's eligible education provider; and
 - (ii) educational qualifications required by the eligible education provider; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each member (if any) of the applicant's family unit.

9 Subclause 572.223(2) of Schedule 2

Omit all the words before paragraph (a), substitute:

- (2) If subclause (1A) does not apply:

10 Clause 572.231 of Schedule 2

Repeal the clause, substitute:

572.231

If subclause 572.223(1A) does not apply:

- (a) the applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is a principal course; and

- (b) the principal course is of a type that was specified for Subclass 572 visas by the Minister in a legislative instrument:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

11 After subparagraph 572.322(b)(i) of Schedule 2

Insert:

- (ia) the primary person is an eligible vocational education and training student;

12 Clause 573.111 of Schedule 2 (before subparagraph (a)(i) of the definition of *eligible higher degree student*)

Insert:

- (ia) an advanced diploma in the higher education sector; or

Part 2—Other amendments

Migration Regulations 1994

13 Clause 988.113 of Schedule 2

Before “71A”, insert “section”.

Schedule 5—Public interest criterion 4020

Migration Regulations 1994

1 Paragraph 4020(2)(b) of Schedule 4

Omit “the application”, substitute “to grant the visa”.

2 After subclause 4020(2) of Schedule 4

Insert:

(2AA) However, subclause (2) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.

3 Paragraph 4020(2B)(b) of Schedule 4

Omit “the application”, substitute “to grant the visa”.

4 After subclause 4020(2B) of Schedule 4

Insert:

(2BA) However, subclause (2B) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.

Schedule 6—Fees and adoption

Australian Citizenship Regulations 2007

1 Paragraph 6(a)

After “Adoption”, insert “or a bilateral arrangement”.

2 Subregulation 12A(7)

Repeal the subregulation, substitute:

(7) In this regulation:

conversion instrument means the instrument titled *Payment of Visa Application Charges and Fees in Foreign Currencies* (IMMI 14/101) that commenced on 3 November 2014.

places and currencies instrument means the instrument titled *Places and Currencies for Paying of Fees* (IMMI 14/102) that commenced on 3 November 2014.

3 Subregulation 12A(7)

Repeal the subregulation, substitute:

(7) In this regulation:

conversion instrument means the instrument titled *Payment of Visa Application Charges and Fees in Foreign Currencies* (IMMI 15/001) that commenced on 1 January 2015.

places and currencies instrument means the instrument titled *Places and Currencies for Paying of Fees* (IMMI 15/002) that commenced on 1 January 2015.

Schedule 7—Definition of financial institution

Migration Regulations 1994

1 Regulation 1.03

Insert:

financial institution means a body corporate that, as part of its normal activities, takes money on deposit and makes advances of money:

- (a) under a regulatory regime:
 - (i) governed by the central bank (or its equivalent) of the country in which the body corporate operates; and
 - (ii) that the Minister is satisfied provides effective prudential assurance; and
- (b) in a way that the Minister is satisfied complies with effective prudential assurance requirements.

2 Clauses 580.111 of Schedule 2, 5A101 of Schedule 5A and 5B101 of Schedule 5B (definition of *financial institution*)

Repeal the definition.

Schedule 8—Application and transitional provisions

Australian Citizenship Regulations 2007

1 At the end of Part 4

Add:

27 Amendments made by the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014*

- (1) The amendments of these Regulations made by item 1 of Schedule 6 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following applications made under the *Australian Citizenship Act 2007*:
 - (a) an application made under section 19C of the Act, but not finally determined, before the commencement of the item;
 - (b) an application made under section 19C of the Act on or after the commencement of the item.
- (2) The amendments of these Regulations made by item 2 of Schedule 6 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application made under Division 2, 3 or 4 of Part 2 of the *Australian Citizenship Act 2007* on or after 3 November 2014.
- (3) The amendments of these Regulations made by item 3 of Schedule 6 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application made under Division 2, 3 or 4 of Part 2 of the *Australian Citizenship Act 2007* on or after 1 January 2015.

Migration Regulations 1994

2 At the end of Schedule 13

Add:

Part 35—Amendments made by the Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014

3501 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a visa made on or after 23 November 2014.

3502 Operation of Schedules 2 and 3

The amendments of these Regulations made by Schedules 2 and 3 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply on and after 23 November 2014.

3503 Operation of Schedule 4

The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a Student (Temporary) (Class TU) visa made on or after 23 November 2014.

3504 Operation of Schedule 5

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 23 November 2014;
- (b) an application made on or after 23 November 2014.

3505 Operation of Schedule 7

The amendments of these Regulations made by Schedule 7 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a student visa made on or after 23 November 2014.