

Migration Regulations 1994

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made under the

Migration Act 1958

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This compilation is in 7 volumes

Volume 1: regulations 1.01–3.31

Volume 2: regulations 4.01–5.45 and Schedule 1

**Volume 3: Schedule 2 (Subclasses 010–410)**

Volume 4: Schedule 2 (Subclasses 416–801)

Volume 5: Schedule 2 (Subclasses 802–995)

Volume 6: Schedules 3–13

Volume 7: Endnotes

Each volume has its own contents

**About this compilation**

**This compilation**

This is a compilation of the *Migration Regulations 1994* that shows the text of the law as amended and in force on 18 April 2015 (the ***compilation date***).

This compilation was prepared on 21 April 2015.

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

**Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Schedule 2—Provisions with respect to the grant of Subclasses of visas

Subclass 010—Bridging A

010.1—Interpretation

010.111

In this Part:

***review authority*** includes the Administrative Appeals Tribunal.

Note: ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20.

010.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

010.21—Criteria to be satisfied at the time of application

010.211

(1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(b) that application has not been finally determined; and

(c) he or she held a substantive visa at the time that application was made; and

(d) either:

(i) he or she has applied for a bridging visa in respect of that application; or

(ii) a bridging visa can be granted in respect of that application under regulation 2.21B.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant:

(i) has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(ii) held a substantive visa when he or she made the application; and

(aa) that application was refused; and

(b) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and

(c) at the time of that application, he or she held a Bridging A (Class WA) or Bridging B (Class WB) visa; and

(d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

(4) An applicant meets the requirements of this subclause if:

(a) the applicant:

(i) holds a Bridging A (Class WA) or Bridging B (Class WB) visa that:

(A) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted if the applicant was in Australia; and

(B) is subject to conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8115 or 8547; and

(ii) held a substantive visa when he or she made the substantive visa application; and

(b) he or she has not applied for a protection visa; and

(c) the Minister is satisfied that the applicant has a compelling need to work.

(5) An applicant meets the requirements of this subclause if:

(a) the applicant has made a valid application for:

(iii) a Partner (Migrant) (Class BC) visa; or

(iv) an Aged Parent (Residence) (Class BP) visa; or

(v) a Contributory Aged Parent (Residence) (Class DG) visa; or

(vi) a Contributory Aged Parent (Temporary) (Class UU) visa; and

(b) the application has not been finally determined; and

(c) the applicant has applied for a bridging visa in respect of that application; and

(d) the applicant holds, or has previously held, a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the visa referred to in paragraph (a).

(6) An applicant meets the requirements of this subclause if:

(a) the applicant has made a valid application for:

(iii) a Partner (Migrant) (Class BC) visa; or

(iv) an Aged Parent (Residence) (Class BP) visa; or

(v) a Contributory Aged Parent (Residence) (Class DG) visa; or

(vi) a Contributory Aged Parent (Temporary) (Class UU) visa; and

(b) that application was refused; and

(c) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application as the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and

(d) the judicial review proceedings (including proceedings on appeal, if any) are not completed; and

(e) the applicant holds, or has previously held, a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the visa referred to in paragraph (a).

010.22—Criteria to be satisfied at the time of decision

010.221

The applicant continues to satisfy the criterion set out in clause 010.211.

010.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

010.4—Circumstances applicable to grant

010.411

The applicant must be in Australia, but not in immigration clearance.

Note 1: The applicant must be an eligible non‑citizen at the time of grant: see Act, s 73.

Note 2: The Minister must grant a Bridging A (Class WA) visa in the circumstances set out in regulation 2.21A.

010.5—When visa is in effect

010.511

In the case of a visa granted to a non‑citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) if the Minister’s decision in respect of the substantive visa application is to grant a visa—the grant of the visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(iii) if the substantive visa application is refused and the holder applies, or purports to apply, for merits review of that refusal:

(A) 28 days after notification by the review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(B) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(iv) the grant of another bridging visa to the holder in respect of the same substantive visa application; or

(v) if the holder withdraws his or her application for a substantive visa or an application to a review authority—28 days after that withdrawal; or

(vi) if the substantive visa (if any) held by the holder is cancelled—that cancellation; or

(vii) if the holder is notified by Immigration that the substantive visa application is invalid—28 days after the notification; or

(viii) if a review authority remits the application for the substantive visa to the Minister for reconsideration—permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph.

010.513

In the case of a visa granted to a non‑citizen on the basis of judicial review of a decision—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(ii) the grant of another bridging visa to the holder in respect of the same application for judicial review; or

(iii) if the holder withdraws his or her application for judicial review—28 days after that withdrawal; or

(iv) if the substantive visa (if any) held by the holder is cancelled—that cancellation; and

(c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 010.511(b).

010.514

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a member of the family unit of a party to judicial review proceedings—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

010.6—Conditions

010.611

(1) In the case of a visa granted to a non‑citizen who:

(a) satisfies the criterion in subclause 010.211(4); or

(b) is an applicant for a protection visa who:

(i) is not a person described in subclause (2); or

(ii) satisfies the criterion in subclause 010.211(2); or

(c) is a person in a class of persons specified by the Minister by an instrument in writing for this paragraph;

Nil.

(2) In the case of a visa granted to a non‑citizen who:

(a) applies for a protection visa; and

(b) satisfies the criterion in subclause 010.211(3);

condition 8101, if that condition applied to the last visa held by the holder.

(3) In the case of a visa granted under regulation 2.21A to a person mentioned in subregulation 2.21A(1): Nil.

(3A) In the case of a visa granted to a non‑citizen who meets the requirements of subclause 010.211(2) or (3) on the basis of a valid application for:

(a) a Graduate—Skilled (Temporary) (Class UQ) visa; or

(d) a Skilled—Independent Regional (Provisional) (Class UX) visa in relation to which the applicant met the requirements for subitem 1218A(5) of Schedule 1; or

(e) a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1;

8501.

(3B) In the case of a visa granted to a person who meets the requirements of subclause 010.211(2) or (3) on the basis of a valid application for:

(a) a Business Skills—Business Talent (Permanent) (Class EA) visa; or

(b) a Business Skills (Provisional) (Class EB) visa; or

(c) a Business Skills (Permanent) (Class EC) visa; or

(d) an Employer Nomination (Permanent) (Class EN) visa; or

(e) a Regional Employer Nomination (Permanent) (Class RN) visa; or

(f) a Skilled—Independent (Permanent) (Class SI) visa; or

(g) a Skilled—Nominated (Permanent) (Class SN) visa; or

(h) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or

(i) a Skilled (Residence) (Class VB) visa;

nil.

(3C) In the case of a visa granted to a person who meets the requirements of subclause 010.211(2) or (3) on the basis of:

(a) making a valid application for a Subclass 457 (Temporary Work (Skilled)) visa; and

(b) holding a Subclass 457 visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

8107 (if the first visa is subject to that condition) and 8501 (if the first visa is subject to that condition).

(4) In any other case: whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8115, 8539, 8547 and 8549 applies to:

(a) the visa held by the holder:

(i) at the time of application; or

(ii) if the bridging visa is granted under regulation 2.21A to a person mentioned in subregulation 2.21A(2) or (3), or under regulation 2.21B—at the time of grant; or

(b) if the visa mentioned in subparagraph (a)(i) has ceased, or no visa is held by the holder at the time of grant—the last Bridging A (Class WA) or Bridging B (Class WB) visa held by the holder.

Subclass 020—Bridging B

Interpretation

020.111

In this Part:

***review authority*** includes the Administrative Appeals Tribunal.

Note: ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20.

020.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

020.21—Criteria to be satisfied at the time of application

020.211

The applicant is the holder of:

(a) a Bridging A (Class WA) visa; or

(b) a Bridging B (Class WB) visa.

020.212

(1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(b) that application has not been finally determined; and

(c) the applicant wishes to leave and re‑enter Australia during the processing of that application; and

(d) the Minister is satisfied that the applicant’s reasons for wishing to do so are substantial.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(b) that application was refused; and

(c) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application, and the judicial review proceedings (including proceedings on appeal, if any) have not been completed; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and

(d) the applicant wishes to leave and re‑enter Australia during the judicial proceedings; and

(e) the Minister is satisfied that the applicant’s reasons for wishing to do so are substantial.

(4) An applicant meets the requirements of this subclause if:

(a) the applicant has made a valid application for a Partner (Migrant) (Class BC) visa; and

(b) the application has not been finally determined; and

(c) the applicant wishes to leave and re‑enter Australia during the processing of that application; and

(d) the Minister is satisfied that the applicant’s reasons for wishing to do so are substantial.

(5) An applicant meets the requirements of this subclause if:

(a) the applicant has made a valid application for a Partner (Migrant) (Class BC) visa; and

(b) that application was refused; and

(c) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and

(d) the judicial review proceedings (including proceedings on appeal, if any) are not completed; and

(e) the applicant wishes to leave and re‑enter Australia during those proceedings; and

(f) the Minister is satisfied that the applicant’s reasons for wishing to do so are substantial.

020.213

The applicant’s return to Australia would not be contrary to the public interest.

020.22—Criteria to be satisfied at the time of decision

020.221

The applicant continues to satisfy the criteria set out in clauses 020.211 and 020.212.

020.222

If the applicant meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for a Graduate—Skilled (Temporary) (Class UQ) visa, the applicant wishes to leave and re‑enter Australia because:

(a) a close relative of the applicant is seriously ill, or has recently died, overseas; or

(b) the applicant’s Australian employer requires the applicant to travel overseas in the course of the applicant’s employment.

Note: ***close relative*** is defined in regulation 1.03.

020.223

The applicant satisfies public interest criterion 4021.

020.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

020.4—Circumstances applicable to grant

020.411

The applicant must be in Australia, but not in immigration clearance.

Note: The applicant must be an eligible non‑citizen at the time of grant: see the Act, s 73.

020.5—When visa is in effect

020.511

In the case of a visa granted to a non‑citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) if the Minister’s decision in respect of the substantive visa application is to grant a visa—the grant of the visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(iii) if the substantive visa application is refused and the holder applies, or purports to apply, for merits review of that refusal:

(A) 28 days after notification by the review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(B) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(iv) if the holder withdraws his or her application for a substantive visa or an application to a review authority—28 days after that withdrawal; or

(v) the grant of another bridging visa to the holder in respect of the same application for a substantive visa; or

(vi) if the substantive visa (if any) held by the holder is cancelled—that cancellation; or

(vii) if the holder is notified by Immigration that the substantive visa application is invalid—28 days after the notification; or

(viii) if a review authority remits the application for the substantive visa to the Minister for reconsideration—permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph; and

(c) permitting the holder to travel to and enter Australia until the time set by paragraph (b), unless the Minister has specified an earlier time for the purpose.

020.512

In the case of a visa granted to a non‑citizen on the basis of judicial review of a decision—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) subject to paragraph (ba), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(ii) if the holder withdraws his or her application for judicial review—28 days after that withdrawal; or

(iii) the grant of another bridging visa in respect of the same application for judicial review; or

(iv) if the substantive visa (if any) held by the holder is cancelled—that cancellation; and

(ba) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 020.511(b); and

(c) permitting the holder to travel to and enter Australia until the time set by paragraph (b), unless the Minister has specified an earlier time for the purpose.

020.513

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a member of the family unit of a party to judicial review proceedings—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

020.6—Conditions

020.611

(1) In the case of a visa granted to a non‑citizen who is either:

(a) an applicant for a protection visa who:

(i) is not a person described in subclause (2) or (2A); or

(ii) satisfies the criterion in subclause 020.212(2); or

(b) a person in a class of persons specified by the Minister by an instrument in writing for this paragraph;

Nil.

(2) In the case of a visa granted to a non‑citizen who:

(a) applies for a protection visa; and

(b) satisfies the criterion in subclause 020.212(3);

condition 8101, if that condition applied to the last visa held by the holder.

(2A) In the case of a visa granted to a person who is an applicant for a Subclass 462 (Work and Holiday) visa, condition 8540.

(3) In the case of a visa granted to a person who meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for:

(a) a Graduate—Skilled (Temporary) (Class UQ) visa; or

(b) a Skilled—Independent Regional (Provisional) (Class UX) visa in relation to which the applicant met the requirements for subitem 1218A(5) of Schedule 1; or

(c) a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1;

8501.

(4) In the case of a visa granted to a non‑citizen who meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for:

(a) a Business Skills—Business Talent (Permanent) (Class EA) visa; or

(b) a Business Skills (Provisional) (Class EB) visa; or

(c) a Business Skills (Permanent) (Class EC) visa; or

(d) an Employer Nomination (Permanent) (Class EN) visa; or

(e) a Regional Employer Nomination (Permanent) (Class RN) visa; or

(f) a Skilled—Independent (Permanent) (Class SI) visa; or

(g) a Skilled—Nominated (Permanent) (Class SN) visa; or

(h) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or

(i) a Skilled (Residence) (Class VB) visa;

nil.

(4A) In the case of a visa granted to a person on the basis of:

(a) making a valid application for a Subclass 457 (Temporary Work (Skilled)) visa; and

(b) holding a Subclass 457 visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

8107 (if the first visa is subject to that condition) and 8501 (if the first visa is subject to that condition).

(5) In any other case—whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8115, 8539, 8547 and 8549 applies to the bridging visa held by the holder at the time of application.

Subclass 030—Bridging C

030.1—Interpretation

030.111

In this Part:

***review authority*** includes the Administrative Appeals Tribunal.

Note: ***Criminal detention*** and ***compelling need to work*** are defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20.

030.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

030.21—Criteria to be satisfied at time of application

030.211

The applicant does not hold a Bridging E (Class WE) visa and has not held such a visa since last holding a substantive visa.

030.212

(1) The applicant meets the requirements of subclause (2), (2A), (3) or (5).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant is not the holder of a substantive visa; and

(b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(ba) either:

(i) the bridging visa can be granted in respect of that application under regulation 2.21B; or

(ii) that application was made at the same time, and on the same form, as the bridging visa application; and

(c) that application has not been finally determined.

(2A) An applicant meets the requirements of this subclause if:

(a) he or she is not the holder of a substantive visa; and

(b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(c) that application has not been finally determined; and

(d) he or she has previously been granted a Bridging C (Class WC) visa in respect of that application.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant holds a Bridging C (Class WC) visa that:

(i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted to an applicant who was in Australia; and

(ii) is subject to condition 8101; and

(b) the Minister is satisfied that the applicant has a compelling need to work.

(5) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(aa) that application was refused; and

(b) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and

(c) at the time of that application, he or she held a Bridging C (Class WC) visa; and

(d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

030.22—Criteria to be satisfied at the time of decision

030.221

The applicant continues to satisfy the criteria in clauses 030.211 to 030.212.

030.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

030.4—Circumstances applicable to grant

030.411

The applicant must be in Australia, but not in immigration clearance.

Note: The applicant must be an eligible non‑citizen at the time of grant: see the Act, s 73.

030.5—When visa is in effect

030.511

In the case of a visa granted to a non‑citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) if the Minister’s decision in respect of the substantive visa application is to grant a visa—the grant of the visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(iii) if the substantive visa application is refused and the holder applies, or purports to apply, for merits review of that refusal:

(A) 28 days after notification by the review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(B) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(iv) the grant of another bridging visa to the holder in respect of the same application for a substantive visa; or

(v) if the holder withdraws his or her application for a substantive visa or an application to a review authority—28 days after that withdrawal; or

(vi) if the holder is notified by Immigration that the substantive visa application is invalid—28 days after the notification; or

(vii) if a review authority remits the application for the substantive visa to the Minister for reconsideration—permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph; or

(viii) if the substantive visa (if any) held by the holder is cancelled—that cancellation.

030.512

In the case of a visa granted to a non‑citizen on the basis of judicial review of a decision—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until:

(i) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(ii) if the holder withdraws his or her application for judicial review—28 days after that withdrawal; or

(iii) the grant of another bridging visa to the holder in respect of the same application for judicial review; or

(iv) if the substantive visa (if any) held by the holder is cancelled—that cancellation; and

(c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 030.511 (b).

030.513

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a member of the family unit of a party to judicial review proceedings—bridging visa:

(a) coming into effect:

(i) on grant; or

(ii) when the substantive visa (if any) held by the holder ceases; and

(b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

030.6—Conditions

030.611

In the case of a visa granted to an applicant who meets the requirements of subclause 030.212(3): Nil.

030.612

In the case of a visa granted to a non‑citizen who:

(a) applies for a protection visa; and

(b) meets the requirements of subclause 030.212(5);

condition 8101 if that condition applied to the last visa held by the holder.

030.613

In the case of a visa granted to a person on the basis of a valid application for:

(a) a Business Skills—Business Talent (Permanent) (Class EA) visa; or

(b) a Business Skills (Provisional) (Class EB) visa; or

(c) a Business Skills (Permanent) (Class EC) visa; or

(d) an Employer Nomination (Permanent) (Class EN) visa; or

(e) a Regional Employer Nomination (Permanent) (Class RN) visa; or

(f) a Skilled—Independent (Permanent) (Class SI) visa; or

(g) a Skilled—Nominated (Permanent) (Class SN) visa; or

(h) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;

nil.

030.614

In any other case, condition 8101.

Subclass 040—Bridging (Prospective Applicant)

040.1—Interpretation

Note: ***Criminal detention*** is defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20. No interpretation provisions specific to this Part.

040.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

040.21—Criteria to be satisfied at time of application

Note: In circumstances set out in regulation 2.22, a non‑citizen is taken under that regulation to have applied for a Bridging D (Class WD) visa.

040.211

The applicant is:

(a) an unlawful non‑citizen; or

(b) the holder of a visa that will cease within the next 3 working days after the day of application.

040.213

The Minister is satisfied that the applicant:

(a) has attempted to make, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia and is unable to do so; and

(b) will, within 5 working days, be able to make, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia.

040.214

The applicant has not previously been granted 2 bridging visas of Subclass 040 since he or she last held a substantive visa.

040.22—Criteria to be satisfied at time of decision

040.221

The applicant continues to satisfy the criteria set out in subdivision 040.21.

040.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

040.4—Circumstances applicable to grant

040.411

The applicant must be in Australia but not in immigration clearance.

Note: The applicant must be an eligible non‑citizen at the time of grant: see the Act, s 73.

040.51—When visa is in effect

040.511

Bridging visa coming into effect:

(a) on grant; or

(b) when the substantive visa (if any) held by the holder ceases;

and remaining in effect for 5 working days after date of grant.

040.6—Conditions

040.611

Condition 8101.

Subclass 041—Bridging (Non‑applicant)

041.1—Interpretation

Note: ***Criminal detention*** is defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20. No interpretation provisions specific to this Part.

041.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

041.21—Criteria to be satisfied at time of application

041.211

The applicant is an unlawful non‑citizen.

041.212

The applicant is unable, or does not want, to apply for a substantive visa.

041.213

An officer who is an authorised officer for the purposes of clause 050.222 is not available to interview the applicant.

041.22—Criteria to be satisfied at time of decision

041.221

The applicant continues to satisfy the criteria in Subdivision 041.21.

041.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

041.4—Circumstances applicable to grant

041.411

The applicant must be in Australia, but not in immigration clearance.

Note: The applicant must be an eligible non‑citizen at the time of grant: see the Act, s 73.

041.51—When visa is in effect

041.511

Bridging visa coming into effect upon grant and remaining in effect until:

(a) the end of the fifth working day after the date of grant; or

(b) if the applicant is granted a Subclass 050 (Bridging (General)) visa before the end of that day—the date of grant of the Subclass 050 (Bridging (General)) visa.

041.6—Conditions

041.611

Conditions 8101 and 8401.

Subclass 050—Bridging (General)

050.1—Interpretation

050.111

In this Part:

***review authority*** includes the Administrative Appeals Tribunal.

Note: ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non‑citizen*** see regulation 2.20.

050.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

050.21—Criteria to be satisfied at time of application

050.211

(1) The applicant is:

(a) an unlawful non‑citizen; or

(b) the holder of a Bridging E (Class WE) visa; or

(c) the holder of a Subclass 041 (Bridging (Non‑applicant)) visa.

(2) The applicant is not an eligible non‑citizen of the kind set out in subregulation 2.20(7), (8), (9), (10), (11) or (17).

050.212

(1) The applicant meets the requirements of subclause (2), (3), (3A), (4), (4AAA), (4AA), (4AB), (5), (5A), (5B), (6), (6AA), (6A), (6B), (7), (8) or (9).

(2) An applicant meets the requirements of this subclause if the Minister is satisfied that the applicant is making, or is the subject of, acceptable arrangements to depart Australia.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia and that application has not been finally determined; or

(b) the Minister is satisfied that the applicant will apply, in Australia, within a period allowed by the Minister for the purpose, for a substantive visa of a kind that can be granted if the applicant is in Australia.

(3A) An applicant meets the requirements of this subclause if:

(a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(b) either:

(i) the applicant has applied for judicial review of a decision to refuse to grant the visa and the judicial proceedings (including any proceedings on appeal) have not been completed; or

(ii) the Minister has applied for judicial review of a decision in relation to a refusal to grant the applicant’s substantive visa, and the judicial review proceedings (including any proceedings on appeal) have not been completed.

(4) An applicant meets the requirements of this subclause if:

(a) the applicant has applied for judicial review of a decision in relation to a substantive visa, other than a decision to refuse to grant a visa; or

(aa) the Minister has applied for judicial review of a decision in relation to the applicant’s substantive visa application, other than a decision relating to a refusal to grant the substantive visa; or

(b) the applicant has applied for merits review of a decision to cancel a visa; or

(ba) the applicant has applied under section 137K of the Act for revocation of the cancellation of a visa; or

(bb) the applicant has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation of a visa; or

(c) the Minister is satisfied that the applicant will make an application of a kind referred to in paragraph (b), (ba) or (bb); or

(d) the applicant has applied for judicial review of the validity of a law that affects:

(i) the applicant’s eligibility to apply for a substantive visa; or

(ii) the applicant’s entitlement to be granted or to continue to hold a substantive visa.

(4AAA) An applicant meets the requirements of this subclause if the applicant has applied for:

(a) a declaration from a court that the Actdoes not apply to the applicant; or

(b) judicial review or merits review of a decision made in relation to the applicant under the *Australian Citizenship Act 2007*;

and the proceedings for the declaration or review have not been completed.

(4AA) An applicant meets the requirements of this subclause if:

(a) the applicant is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in:

(i) paragraph (3A)(b); or

(ii) paragraph (4)(a); or

(iii) paragraph (4)(aa); or

(iv) paragraph (4)(d); and

(b) the person whose substantive visa application is the subject of the judicial review proceedings is not a party to a representative proceeding; and

(c) the applicant made a substantive visa application that was combined with the substantive visa application mentioned in:

(i) paragraph (3A)(a); or

(ii) subclause (4).

(4AB) An applicant meets the requirements of this subclause if the applicant is:

(a) a member of the immediate family of a person who meets the requirements of subclause (4AAA); or

(b) a brother or sister who has not turned 18, of a person who:

(i) meets the requirements of subclause (4AAA); and

(ii) has not turned 18.

Note: Regulation 1.12AA defines***member of the immediate family****.*

(4A) For the purposes of subclauses (3A), (4) and (4AAA), the applicant is taken to have applied for judicial review if the applicant:

(a) is described or identified, in an application or document filed for the purposes of section 33H of the *Federal Court of Australia Act 1976*, as a group member to whom a representative proceeding relates; or

(b) is a person on whose behalf or for whose benefit a person sues under Order 16 Rule 12 of the *High Court Rules*.

(5) An applicant meets the requirements of this subclause if:

(a) he or she held a visa that was cancelled under subsection 140(1) or (3) of the Act (which deals with cancellation because of the cancellation of a visa held by another person); and

(b) either:

(i) the other person whose visa was cancelled has applied for review of the decision to cancel his or her visa; or

(ii) the Minister is satisfied that that other person will make an application of that kind.

(5A) An applicant meets the requirements of this subclause if:

(a) the applicant held a visa that was cancelled under subsection 140(1), (2) or (3) of the Act because another person’s visa was cancelled under section 137J of the Act; and

(b) one of the following applies in relation to the person whose visa was cancelled under section 137J of the Act:

(i) he or she has applied under section 137K of the Act for revocation of the cancellation of the visa;

(ii) he or she has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation of the visa;

(iii) the Minister is satisfied that he or she will make an application of a kind mentioned in subparagraph (i) or (ii).

(5B) An applicant meets the requirements of this subclause if the applicant:

(a) is a person to whom section 48A of the Act applies; and

(b) has made a request to the Minister to determine under section 48B of the Act that section 48A of the Act does not apply to prevent an application for a protection visa by the applicant; and

(c) has not previously sought, or been the subject of a request by another person for:

(i) a determination under section 48B of the Act; or

(ii) the exercise of the Minister’s power under section 345, 351, 391, 417 or 454 of the Act.

(6) An applicant meets the requirements of this subclause if:

(a) the applicant is the subject of:

(i) a decision in relation to an application made in Australia for a visa; or

(ii) a decision to cancel a visa; and

(b) in relation to the decision mentioned in paragraph (a), the applicant:

(i) is the subject of a decision for which the Minister has the power to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

(ii) has made a request to the Minister to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

(c) the applicant has not previously sought, or been the subject of a request by another person for:

(i) the exercise of the Minister’s power under section 345, 351, 391, 417 or 454 of the Act; or

(ii) a determination under section 48B of the Act.

(6AA) An applicant meets the requirements of this subclause if the Minister has decided, under section 345, 351, 391, 417 or 454 of the Act, to substitute a more favourable decision for the decision of a review authority but the applicant cannot, for the time being, be granted a substantive visa because of a determination under section 85 of the Act.

(6A) An applicant meets the requirements of this subclause if:

(a) the applicant holds a Bridging E (Class WE) visa granted on the basis of the applicant meeting the requirements of subclause (6AA); and

(b) the Minister has decided, under section 345, 351, 391, 417 or 454 of the Act, to substitute a more favourable decision for the decision of a review authority but the applicant cannot, for the time being, be granted a substantive visa because of a determination under section 85 of the Act; and

(c) the Minister is satisfied that the applicant has a compelling need to work.

(6B) An applicant meets the requirements of this subclause if:

(a) the applicant holds, or has held, a Bridging E (Class WE) visa granted before 1 July 2009 on the basis of the applicant meeting the requirements of subclause (6) or (6A); and

(b) the applicant is the subject of a decision for which the Minister has the power to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

(c) before 1 July 2009, the applicant made a request to the Minister to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

(d) the Minister has not yet made a decision to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act.

(7) An applicant meets the requirements of this subclause if:

(a) the applicant is in criminal detention; and

(b) no criminal justice stay certificate or criminal justice stay warrant about the applicant is in force.

(8) An applicant meets the requirements of this subclause if:

(a) the applicant holds a Bridging E (Class WE) visa that:

(i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted if the applicant was in Australia; and

(ii) is subject to condition 8101; and

(b) the Minister is satisfied that the applicant has a compelling need to work; and

(c) in the case of an applicant who was an applicant for a protection visa—either:

(i) the reasons for the delay in making the application for a protection visa are acceptable to the Minister; or

(ii) the applicant is in a class of persons specified by the Minister by instrument in writing for this subparagraph.

(9) An applicant meets the requirements of this subclause if:

(a) the applicant has made a valid application for a Partner (Migrant) (Class BC) visa; and

(b) that application was refused; and

(c) either:

(i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant’s substantive visa application; or

(ii) the applicant:

(A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

(B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i);

and the applicant or family unit member does not satisfy the criterion in paragraph 010.211(6)(c) for the grant of a Bridging A (Class WA) visa; and

(d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

050.22—Criteria to be satisfied at time of decision

050.221

The applicant continues to satisfy the criteria set out in clauses 050.211 and 050.212.

050.222

(1) Unless subclause (2), (3) or (4) applies, the applicant has been interviewed by an officer who is authorised by the Secretary for the purposes of this clause.

(2) This subclause applies if:

(a) the applicant is not in immigration detention; and

(b) the applicant has made a valid application for a substantive visa; and

(c) the applicant holds a Bridging E (Class WE) visa; and

(d) the applicant is not seeking to be granted a further Bridging E (Class WE) visa that is subject to conditions other than those that apply to the Bridging E (Class WE) visa that the applicant currently holds.

(3) This subclause applies if:

(a) an officer who is authorised by the Secretary for the purposes of this clause was not available to interview the applicant:

(i) at the time of application; or

(ii) if the bridging visa could be granted under regulation 2.21B, at the time of decision; and

(b) the applicant is not in immigration detention; and

(c) the applicant has made a valid application for a substantive visa; and

(d) the applicant has previously held, but does not currently hold, a Bridging E (Class WE) visa.

Note: For subclauses (2) and (3)—in certain circumstances, a Bridging E (Class WE) visa may also be taken to have been granted without application to a non‑citizen who is in immigration detention. See the Act, s 73. In addition the Minister may grant a Bridging E (Class WE) visa to non‑citizens who are in criminal detention or are unwilling or unable to make a valid application: see r 2.25.

(4) This subclause applies if the applicant is a person:

(a) to whom subclause 050.212(4AAA) applies; or

(b) to whom subclause 050.212(4AB) continues to apply.

050.223

The Minister is satisfied that, if a bridging visa is granted to the applicant, the applicant will abide by the conditions (if any) imposed on it.

050.224

If an authorised officer has required a security for compliance with any conditions that the officer has indicated to the applicant will be imposed on the visa if it is granted, the security has been lodged.

050.225

If the applicant:

(a) is at least 18 at the time of application; and

(b) holds, or has previously held, a Bridging E (Class WE) visa granted under section 195A of the Act;

the applicant satisfies public interest criterion 4022.

050.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

050.4—Circumstances applicable to grant

050.411

The applicant must be in Australia but not in immigration clearance.

Note: The applicant must be an eligible non‑citizen at the time of grant: see the Act, s 73.

050.5—When visa is in effect

050.511

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) who has applied for a substantive visa—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until:

(i) if the Minister’s decision in respect of the substantive visa application is to grant a visa—the grant of the visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(iii) if the substantive visa application is refused and the holder applies, or purports to apply, for merits review of that refusal:

(iiia) if the substantive visa application is refused and the refusal decision is referred to the Immigration Assessment Authority under section 473CA of the Act—28 days after notification by the Immigration Assessment Authority of its decision under subsection 473CC(2) of the Act; or

(A) 28 days after notification by the review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(B) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(I) of its decision on the merits review; or

(II) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(iv) if the holder withdraws his or her application for a substantive visa or an application to a review authority—28 days after that withdrawal; or

(v) the grant of a further bridging visa to the holder in respect of his or her substantive visa application; or

(vi) if the holder is notified by Immigration that the substantive visa application is invalid—28 days after the notification; or

(vii) if a review authority the Immigration Assessment Authority remits the application for the substantive visa to the Minister for reconsideration—permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph.

(ba) if that application is refused and the refusal decision is referred to the Immigration Assessment Authority under section 473CA of the Act—28 days after notification by the Immigration Assessment Authority of its decision under subsection 473CC(2) of the Act; or

050.511A

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a member of the family unit of a party to judicial review proceedings—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until the bridging visa held by the party to the judicial review proceedings ceases to be in effect.

050.511B

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a person who has applied for a declaration mentioned in paragraph 050.212(4AAA)(a)—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until 28 days after the proceedings for the declaration are completed.

050.511C

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen has applied for judicial review of a decision under the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212(4AAA)(b)—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until 28 days after the latest of the following:

(i) the day the judicial review proceedings are completed;

(ii) if the court remits the matter to the Minister or a review authority for reconsideration—the day the non‑citizen is notified of the decision of the Minister or review authority;

(iii) if the non‑citizen withdraws his or her application for judicial review—the day the application is withdrawn;

(iv) if the non‑citizen is taken to have applied for judicial review under subclause 050.212(4A), and either withdraws from of or is struck out of the representative proceedings for judicial review—the day the non‑citizen withdraws or is struck out; and

(c) if the court remits the matter to the Minister for reconsideration, and the Minister approves the person becoming an Australian citizen—permitting the holder to remain in Australia until the day on which the non‑citizen becomes an Australian citizen in accordance with Subdivision B of Division 2 of Part 2 of the *Australian Citizenship Act 2007*.

050.511D

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen has applied, or has purported to apply, for merits review of a decision under the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212(4AAA)(b)—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until 28 days after the latest of the following:

(i) the day the non‑citizen is notified by the review authority:

(A) of its decision on the merits review; or

(B) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority;

(ii) if a review authority remits the matter to the Minister for reconsideration—the day the non‑citizen is notified of the Minister’s decision;

(iii) if the non‑citizen withdraws his or her application for merits review—the day the application is withdrawn; and

(c) if a review authority remits the matter to the Minister for reconsideration, and the Minister approves the person becoming an Australian citizen—permitting the holder to remain in Australia until the day on which the non‑citizen becomes an Australian citizen in accordance with Subdivision B of Division 2 of Part 2 of the *Australian Citizenship Act 2007*.

Note: Merits review of certain decisions made under the *Australian Citizenship Act 2007* is available under the *Administrative Appeals Tribunal Act 1975* (the AAT Act). Regulation 18A of the *Administrative Appeals Tribunal Regulations 1976* provides for service of documents under the AAT Act for notification of decisions and other matters.

050.511E

In the case of a visa granted to a non‑citizen on the basis that the non‑citizen is a person to whom subclause 050.212(4AB) applies—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until the bridging visa held by the person who meets the requirements of subclause 050.212(4AAA) ceases to be in effect.

050.512

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) to whom paragraph 050.212(3A)(b), paragraph 050.212(4)(a), (aa) or (d) or subclause 050.212(9) applies—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until:

(i) if another bridging visa is granted to the holder in respect of his or her judicial review application—the grant of that bridging visa; or

(ii) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(iii) if the holder withdraws his or her application for judicial review—28 days after that withdrawal; or

(iv) if the holder opts out of, or is struck out of, the representative proceeding for judicial review—28 days after so opting out or being struck out; and

(c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 050.511(b), clause 050.513 or clause 050.513B.

050.513

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) who has applied, or has purported to apply, for merits review of a decision to cancel a visa—visa coming into effect on grant permitting the holder to remain in Australia until:

(a) 28 days after notification by the review authority:

(i) of its decision on the merits review; or

(ii) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(b) if another bridging visa is granted to the holder in respect of his or her merits review application—the grant of that bridging visa; or

(c) if the holder withdraws his or her application for merits review—28 days after that withdrawal.

050.513A

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) who has applied under section 137K of the Act for revocation of the cancellation of a visa—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to stay in Australia until:

(i) 7 working days after the holder is notified of the decision on the revocation application; or

(ii) if another bridging visa is granted to the holder in respect of his or her revocation application—the grant of that bridging visa; or

(iii) if the holder withdraws his or her revocation application—7 working days after that withdrawal; and

(c) if the decision on the revocation application is not to revoke the cancellation and the holder applies for merits review of that decision—permitting the holder to remain in Australia in accordance with the relevant paragraph of clause 050.513B.

050.513B

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) who has applied, or has purported to apply, for merits review of a decision under section 137L of the Act not to revoke the cancellation of a visa—bridging visa coming into effect on grant permitting the holder to stay in Australia until:

(a) 28 days after notification by the review authority:

(i) of its decision on the merits review; or

(ii) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(b) if another bridging visa is granted to the holder in respect of his or her review application—the grant of that bridging visa; or

(c) if the holder withdraws his or her application for merits review—28 days after that withdrawal.

050.514

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) to whom subsection 140(1) or (3) of the Act (which deal with cancellation as a result of cancellation of a visa held by another non‑citizen) applies, if the other person whose visa was cancelled has applied, or has purported to apply, for review of that cancellation decision—visa coming into effect on grant permitting the holder to remain in Australia until:

(a) 28 days after notification by the review authority:

(i) of its decision on the merits review; or

(ii) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(b) if another bridging visa is granted to the holder in respect of that merits review application—the grant of that bridging visa; or

(c) if the other person whose visa was cancelled withdraws his or her application for merits review—28 days after that withdrawal.

050.514AA

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) to whom subsection 140(1), (2) or (3) of the Act applies, if the person whose visa was cancelled under section 137J of the Act has applied under section 137K of the Act for revocation of the cancellation—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to stay in Australia until:

(i) 7 working days after the person whose visa was cancelled under section 137J of the Act is notified of the decision on the revocation application; or

(ii) if another bridging visa is granted to the holder in respect of the revocation application—the grant of that bridging visa; or

(iii) if the person whose visa was cancelled under section 137J of the Act withdraws his or her revocation application—7 working days after that withdrawal; and

(c) if the decision on the revocation application is not to revoke the cancellation and the person whose visa was cancelled applies for merits review of that decision—permitting the holder to remain in Australia in accordance with the relevant paragraph of clause 050.514AB.

050.514AB

In the case of a visa granted to a non‑citizen (other than a non‑citizen to whom subclause 050.222(3) applies) to whom subsection 140(1), (2) or (3) of the Act applies, if the person whose visa was cancelled under section 137J of the Act has applied, or has purported to apply, for merits review of a decision under section 137L of the Act not to revoke the cancellation—bridging visa coming into effect on grant permitting the holder to stay in Australia until:

(a) 28 days after the person whose visa was cancelled under section 137J of the Act is notified by the review authority:

(i) of its decision on the merits review; or

(ii) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(b) if another bridging visa is granted to the holder in respect of the review application—the grant of that bridging visa; or

(c) if the person whose visa was cancelled under section 137J of the Act withdraws his or her application for merits review—28 days after that withdrawal.

050.514A

In the case of a visa granted to a non‑citizen to whom subclause 050.222(3) applies—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia for 5 working days from date of grant.

050.515

(1) In the case of a visa granted, or taken to have been granted, to a non‑citizen who is in criminal detention—visa coming into effect on grant and ceasing on:

(a) the non‑citizen’s unconditional release from criminal detention; or

(b) the non‑citizen’s release on bail; or

(c) if the non‑citizen is in prison:

(i) the non‑citizen’s completing a sentence of imprisonment; or

(ii) subject to subclause (2), the non‑citizen’s release on parole; or

(iv) the non‑citizen’s escaping from prison; or

(ca) subject to subclause (2), in the case of a non‑citizen who is subject to an order for periodic detention—the completion of the period of periodic detention imposed by that order; or

(d) the signing of a deportation order against the non‑ citizen; or

(e) the grant of another visa to the holder; or

(f) if the non‑citizen is subject to an order for periodic detention—the non‑citizen’s breaching a condition of that order.

(2) Subparagraph (1)(c)(ii) and paragraph (1)(ca) apply only in the case of a non‑citizen who has actually served a part of a term of imprisonment.

050.516

In the case of a visa that is taken to have been granted by operation of section 75 of the Act (which deals with applications for bridging visas which the Minister does not decide within a short period)—visa coming into effect on grant permitting the applicant to remain in Australia for:

(a) 5 working days from date of grant; or

(b) if the Minister is satisfied, within 5 days from the date of grant, that the visa holder has made acceptable arrangements to depart Australia within 14 days from the date of grant—14 days from the date of grant.

050.517

In any other case—visa coming into effect on grant and ceasing on a date specified by the Minister for the purpose.

050.6—Conditions

050.611

In the case of a visa granted to a non‑citizen who:

(a) either:

(i) applied for a substantive visa at the same time and on the same form as he or she applied for the bridging visa; or

(ii) applied for a substantive visa in respect of which the bridging visa is granted under regulation 2.21B; and

(b) is not in immigration detention; and

(c) held a Bridging E (Class WE) visa at the time when he or she made the application for the substantive visa;

whichever of conditions 8101, 8104, 8201, 8207, 8401, 8402, 8505, 8506 and 8548 apply to that bridging visa.

050.611B

In the case of a visa granted to an unlawful non‑citizen to whom subclause 050.222(3) applies:

(a) condition 8401 must be imposed; and

(b) any 1 or more of conditions 8101, 8104, 8201, 8207, 8505, 8506 and 8548 may be imposed.

050.612

In the case of a visa that is taken to have been granted by operation of section 75 of the Act—conditions 8101, 8201, 8402, 8506, 8509 and 8548.

050.612A

(1) This clause applies to a visa that is granted to an applicant:

(a) who meets the requirements of 1 or more of the following:

(i) subparagraph 050.212(3A)(b)(i);

(ii) subparagraph 050.212(3A)(b)(ii);

(iii) paragraph 050.212(4)(a);

(iv) paragraph 050.212(4) aa);

(v) paragraph 050.212(4)(d);

(vi) subclause 050.212(4AA);

(viia) subclause 050.212(6AA);

(viii) subclause 050.212(9); and

(b) who does not meet the requirements of subclause 050.212(5B), (6) or (6A); and

(c) to whom subclause 050.614(1) does not apply.

(2) Condition 8101 must be imposed.

(3) Any 1 or more of conditions 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.612B

In the case of a visa granted to an applicant who meets the requirements of subclause 050.212(4AAA) or (4AB): Nil.

050.613

In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who meets the requirements of subclause 050.212(6A) or (8)—any 1 or more of conditions 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.613A

(1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to which any other clause in this Division applies, other than clause 050.613 or 050.616A) who:

(a) applies for a protection visa; and

(b) is not in a class of persons specified by the Minister by instrument in writing for this paragraph;

condition 8101, unless condition 8116 is imposed.

(2) If the applicant is an applicant to whom subclause (1) applies, any 1 or more of conditions 8116, 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

(3) Condition 8116 must not be imposed unless the applicant is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

050.614

(1) In the case of a visa granted to an applicant who:

(a) is an applicant for a protection visa; and

(b) meets the requirements of subclause 050.212(3A), (4), (4AA) or (4A);

if condition 8101 or 8116 applied to the last visa held by the applicant, that condition.

(2) Any 1 or more of conditions 8104, 8201, 8207, 8401, 8402, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8512 and 8548 may be imposed.

050.615

(1) In the case of a visa granted to an applicant who:

(a) meets the requirements of subclause 050.212(5B) or (6); and

(b) was not an unlawful non‑citizen after the application for a substantive visa was finally determined up until the time of the request for the Minister:

(i) to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; or

(ii) to make a determination under section 48B of the Act;

if condition 8101 or 8116 applied to the last visa held by the applicant, that condition.

(2) Any 1 or more of conditions 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.615A

(1) In the case of a visa granted to an applicant who:

(a) meets the requirements of subclause 050.212(5B) or (6); and

(b) was an unlawful non‑citizen for all or part of the period after the application for a substantive visa was finally determined until the time of the request for the Minister:

(i) to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; or

(ii) to make a determination under section 48B of the Act;

condition 8101, unless condition 8116 is imposed.

(2) Any 1 or more of conditions 8116, 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

(3) Condition 8116 must not be imposed unless the applicant is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

050.616

(1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who meets the requirements of subclause 050.212(6B)—condition 8101, if that condition applied to the last visa held by the holder.

(2) Any 1 or more of conditions 8104, 8201, 8207, 8401, 8402, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8512 and 8548 may be imposed.

050.616A

(1) In the case of a visa granted under section 195A of the Act (whether or not the holder of the visa is a person to whom another clause in this Division would otherwise apply)—any one or more of conditions 8101, 8104, 8116, 8201, 8207, 8401, 8402, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

(2) Condition 8116 must not be imposed unless the holder of the visa is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

050.617

(1) In any other case—any 1 or more of conditions 8101, 8104, 8116, 8201, 8207, 8401, 8402, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

(2) Condition 8116 must not be imposed unless the applicant is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

050.618

In addition to any other condition imposed by another provision of this Division, condition 8564 may be imposed.

050.619

In addition to any other condition imposed by another provision of this Division, if the person to whom the visa would be granted has signed a code of behaviour that is in effect for the visa, condition 8566 must be imposed.

Note 1: A Subclass 050 visa may be granted with or without an application (for example, see regulation 2.25).

Note 2: The requirement to sign a code of behaviour may be imposed by public interest criterion 4022 or in accordance with section 195A of the Act.

Subclass 051—Bridging (Protection Visa Applicant)

051.1—Interpretation

051.111

In this Part:

***review authority*** includes the Administrative Appeals Tribunal.

Note 1: ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03.

Note 2: For ***eligible non‑citizen*** see regulation 2.20.

Note 3: For the meaning of ***finally determined***, see subsection 5(9) of the Act.

Note 4: A Subclass 051 visa may also be granted without application.

051.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

051.21—Criteria to be satisfied at time of application

051.211

The applicant is an eligible non‑citizen referred to in subregulation 2.20(7), (8), (9), (10) or (11).

051.212

The applicant, or a person acting on behalf of the applicant, has signed an undertaking acceptable to the Minister that:

(a) if the applicant withdraws the application for a protection visa, the applicant will depart Australia, or present himself or herself to Immigration for removal, within 28 days after the applicant withdraws the application; and

(b) if the application for a protection visa is finally determined and refused, the applicant will depart Australia, or present himself or herself to Immigration for removal, within 28 days after the latest of the following:

(i) the applicant is notified that the protection visa application has been finally determined and refused;

(ii) the applicant withdraws an application for judicial review of the decision to refuse the protection visa application (the ***visa decision***);

(iii) proceedings for judicial review of the visa decision are completed, and the outcome is that the visa decision is maintained;

(iv) the applicant withdraws an appeal against the outcome of judicial review of the visa decision;

(v) proceedings on an appeal against the outcome of judicial review of the visa decision are completed, and the outcome is that the visa decision is maintained.

051.213

The Minister is satisfied that the applicant satisfies:

(a) the public interest criteria 4001, 4002 and 4003; and

(b) the health criteria in clauses 866.223, 866.224, 866.224A and 866.224B.

051.22—Criteria to be satisfied at time of decision

051.221

The applicant continues to satisfy the criteria in clauses 051.211, 051.212 and 051.213.

051.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

051.4—Circumstances applicable to grant

051.411

The applicant must be in Australia but not in immigration clearance.

051.5—When visa is in effect

051.511

In the case of a visa granted to a non‑citizen who has applied for a protection visa—bridging visa coming into effect on grant, permitting the holder to remain in Australia until:

(a) either:

(i) if the Minister’s decision in respect of the protection visa application is to grant a visa—the grant of the protection visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(b) if that application is refused and the holder applies, or purports to apply, for merits review of that decision:

(i) 28 days after notification by the review authority:

(A) of its decision on the merits review; or

(B) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(ii) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(A) of its decision on the merits review; or

(B) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(c) the grant of a further bridging visa to the holder in respect of his or her protection visa application; or

(d) if the holder withdraws the application for the protection visa or for review—28 days after that withdrawal; or

(e) if the holder is notified by Immigration that the protection visa application is invalid—28 days after the notification; or

(f) if a review authority or the Immigration Assessment Authority remits the application for the protection visa to the Minister for reconsideration—permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this clause.

051.512

In the case of a visa granted to a non‑citizen on the basis of judicial review of a decision to refuse a protection visa application—bridging visa coming into effect on grant and permitting the applicant to remain in Australia until:

(a) if another bridging visa is granted to the holder in respect of his or her application for judicial review—the grant of that bridging visa; or

(b) subject to paragraph (d), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(c) if the applicant withdraws the application for judicial review—28 days after that withdrawal; or

(d) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of clause 051.511.

051.513

(1) In the case of a visa that is taken to have been granted by operation of section 75 of the Act and that was not applied for on the basis of judicial review—bridging visa coming into effect on grant and permitting the applicant to remain in Australia until:

(a) either:

(i) if the Minister’s decision in respect of the protection visa application is to grant a visa—the grant of the visa; or

(ii) if the Minister’s decision in respect of that application is to refuse to grant a visa—28 days after the holder is notified of that refusal; or

(b) if the protection visa application is refused and the holder applies, or purports to apply, for merits review of that decision:

(i) 28 days after notification by the review authority:

(A) of its decision on the merits review; or

(B) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(ii) if the holder has the right to apply to another review authority for merits review of the decision of the review authority and so applies, or purports to apply—28 days after notification by the other review authority:

(A) of its decision on the merits review; or

(B) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority; or

(ba) if the protection visa application is refused and the refusal decision is referred to the Immigration Assessment Authority under section 473CA of the Act—28 days after notification by the Immigration Assessment Authority of its decision under subsection 473CC(2) of the Act; or

(c) the grant of a further bridging visa to the holder in respect of his or her protection visa application; or

(d) if the holder withdraws the application for the protection visa or for review—28 days after that withdrawal.

(2) In the case of a visa that is taken to have been granted by operation of section 75 of the Act and that was applied for on the basis of judicial review—bridging visa coming into effect on grant and permitting the applicant to remain in Australia until:

(a) if another bridging visa is granted to the holder in respect of his or her application for judicial review—the grant of that bridging visa; or

(b) subject to paragraph (d), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or

(c) if the applicant withdraws the application for judicial review—28 days after that withdrawal; or

(d) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of clause 051.511.

051.6—Conditions

051.611

In the case of a visa that is taken to have been granted by operation of section 75 of the Act—conditions 8101, 8201, 8402, 8506 and 8513.

051.611A

(1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to which any other clause in this Division applies) who:

(a) applies for a protection visa; and

(b) has been in Australia for a period of 45 days or more, or for periods totalling 45 days or more, (not including any day for part of which the applicant was not in Australia) in the 12 months immediately before the date of that application; and

(c) is not within a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph;

condition 8101, unless condition 8116 is imposed.

(2) If the applicant is an applicant to whom subclause (1) and clause 051.611 applies—conditions 8101, 8201, 8402, 8506 and 8513.

(3) In addition, if the applicant is an applicant to whom subclause (1) applies, any 1 or more of conditions 8104, 8116, 8201, 8401, 8505, 8506, 8507, 8508, 8510, 8511 and 8512 may be imposed.

(4) Condition 8116 must not be imposed unless the applicant is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

051.612

(1) In any other case—any 1 or more of conditions 8101, 8104, 8116, 8201, 8401, 8505, 8506, 8507, 8508, 8510, 8511 and 8512 may be imposed.

(2) Condition 8116 must not be imposed unless the applicant is in a class of persons specified by the Minister, by legislative instrument, for this subclause.

**051.613**

In addition to any other condition imposed by another provision of this Division, condition 8564 may be imposed.

Subclass 060—Bridging F

060.1—Interpretation

Note: No interpretation provisions specific to this Part.

060.2—Primary criteria

060.21—[No criteria to be satisfied at time of application]

060.22—Criteria to be satisfied at time of decision

060.221

The Minister is satisfied that the applicant has been identified as a suspected victim of human trafficking.

060.222

The Minister is satisfied that suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.223

The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.3—Secondary criteria

060.31—[No criteria to be satisfied at time of application]

060.32—Criteria to be satisfied at time of decision

060.321

The applicant is a member of the immediate family of, and made a combined application with, a person in relation to whom the primary criteria in Subdivision 060.22 are satisfied.

060.322

The Minister is satisfied that the applicant continues to be a member of the immediate family of a person who has been identified as a suspected victim of human trafficking.

060.323

The Minister is satisfied that suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.324

The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.4—Circumstances applicable to grant

060.411

(1) An applicant:

(a) to whom subregulation 2.20(14) applies; and

(b) who applied for the visa using the application process described in subregulation 2.20B(2);

must be outside Australia when the visa is granted.

(2) An applicant:

(a) to whom subregulation 2.20(15) applies; and

(b) who applied for the visa using the application process described in subregulation 2.20B(2);

must be in Australia, but not in immigration clearance, when the visa is granted.

(3) An applicant:

(a) to whom subregulation 2.20(15) applies except that he or she has been immigration cleared; and

(b) who applied for the visa using the application process described in subregulation 2.20B(2);

must be in Australia when the visa is granted.

(4) In any other case, an applicant must be in Australia when the visa is granted.

060.5—When visa is in effect

060.511

(1) For a person to whom subregulation 2.20(14) applies, and who made an application in accordance with subregulation 2.20B(2)—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and

(c) permitting the holder to remain in Australia until a date specified by the Minister.

(2) For a person to whom subregulation 2.20(15) applies regardless of whether the person has been immigration cleared, and who made an application in accordance with subregulation 2.20B(2)—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and

(c) permitting the holder to remain in Australia until the earliest of the following:

(i) a date specified by the Minister;

(ii) the date on which the holder is granted a new criminal justice stay visa in accordance with Division 4 of Part 2 of the Act;

(iii) the date on which a criminal justice certificate issued to the holder in accordance with that Division is cancelled.

(3) In any other case—bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia until the earliest of the following:

(i) a date specified by the Minister;

(ii) the end of 45 days after the date of the grant;

(iii) if:

(A) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, under paragraph 1306(3)(d) of Schedule 1 that the holder has been identified as a suspected victim of human trafficking; and

(B) an officer of that police force tells Immigration, in writing, that the holder is no longer identified as a suspected victim;

when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, that the holder is no longer identified as a suspected victim;

(iv) if:

(A) a holder is a member of the immediate family of a person; and

(B) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, under paragraph 1306(3)(d) of Schedule 1 that the person has been identified as a suspected victim of human trafficking; and

(C) an officer of that police force tells Immigration, in writing, that the person is no longer identified as a suspected victim;

when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, that the person is no longer identified as a suspected victim.

060.6—Conditions

060.611

In the case of a visa that is taken to have been granted by operation of section 75 of the Act—conditions 8101 and 8402.

060.612

In any other case:

(a) conditions 8101 and 8401 must be imposed; and

(b) any 1 or more of conditions 8505, 8506, 8507, 8510 and 8511 may be imposed.

060.613

In addition to clauses 060.611 and 060.612, in the case of a visa that has been granted to a person who:

(a) made the application for the visa in accordance with subregulation 2.20B(2); and

(b) is the holder of the visa on the basis of satisfying the secondary criteria for the grant of the visa;

condition 8502 must be imposed.

Subclass 070—Bridging (Removal Pending)

070.1—Interpretation

070.111

In this Part:

***eligible non‑citizen*** has the meaning given in regulation 2.20.

Note: See regulation 2.20A for how an application for a Bridging R (Class WR) visa is taken to have been validly made.

070.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

070.21—Criteria to be satisfied at time of application

070.211

The applicant is an eligible non‑citizen referred to in subregulation 2.20(12) who is taken to have made an application in accordance with subregulation 2.20A(2).

070.22—Criteria to be satisfied at time of decision

070.221

The applicant continues to satisfy the criterion set out in clause 070.211.

070.222

The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions to which the visa is subject.

070.223

The applicant satisfies public interest criteria 4001 and 4002.

070.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

070.4—Circumstances applicable to grant

070.411

The applicant must be in immigration detention when the visa is granted.

070.5—When visa is in effect

070.511

Bridging visa:

(a) coming into effect on grant; and

(b) permitting the holder to remain in Australia; and

(c) ceasing at the time when the Minister gives a notice in writing to the holder, by one of the methods specified in section 494B of the Act, stating that:

(i) the Minister is satisfied that the holder’s removal from Australia is reasonably practicable; or

(ii) the holder has breached a condition to which the visa is subject.

070.6—Conditions

070.611

Conditions 8303, 8401, 8506, 8513, 8514, 8541, 8542 and 8543 must be imposed.

070.612

(1) If the Minister has granted the visa under regulation 2.25AA, conditions 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8560, 8561, 8562 and 8563 must be imposed, in addition to any condition mentioned in clause 070.611.

(2) If the Minister has granted the visa under section 195A of the Act, conditions 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8560, 8561, 8562 and 8563 may be imposed, in addition to any condition mentioned in clause 070.611.

Subclass 100—Partner

100.1—Interpretation

100.111

In this Part:

***sponsoring partner***, in relation to an applicant, means:

(a) an Australian citizen, Australian permanent resident, or eligible New Zealand citizen who was specified as the applicant’s spouse, intended spouse or de facto partner in the application that resulted in the grant of the Subclass 309 (Partner (Provisional)) visa mentioned in paragraph 100.221(2)(a), (2A)(a), (3)(a), (4)(a) or (4A)(a); or

(b) for a person to whom the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa—the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was the spouse or de facto partner of that person at the time the visa was granted.

Note: ***Australian permanent resident***, ***eligible New Zealand citizen***, ***long‑term partner relationship*** and ***permanent humanitarian visa*** are defined in regulation 1.03, de facto ***partner*** is defined in section 5CB of the Act, and ***spouse*** is defined in section 5F of the Act.

100.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

100.21—[No criteria to be satisfied at time of application]

100.22—Criteria to be satisfied at time of decision

100.221

(1) The applicant meets the requirements of subclause (2), (2A), (3), (4) or (4A).

(2) The applicant meets the requirements of this subclause if:

(a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa; and

(b) the applicant is the spouse or de facto partner of the sponsoring partner; and

(c) subject to subclauses (5), (6) and (7), at least 2 years have passed since the application was made.

(2A) The applicant meets the requirements of this subclause if:

(a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and

(b) the applicant is the spouse or de facto partner of the sponsoring partner; and

(c) subject to subclauses (5), (6) and (7), at least 2 years have passedsince the Minister made the decision mentioned in paragraph (a).

(3) The applicant meets the requirements of this subclause if the applicant:

(a) first entered Australia as the holder of a Subclass 309 (Partner (Provisional)) visa and continues to be the holder of that visa; and

(b) would meet the requirements of subclause (2) or (2A) except that, after the applicant first entered Australia as the holder of the visa mentioned in paragraph (a), the sponsoring partner has died; and

(c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died.

(4) The applicant meets the requirements of this subclause if:

(a) the applicant first entered Australia as the holder of a Subclass 309 (Partner (Provisional)) visa and continues to be the holder of that visa; and

(b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and

(c) after the applicant first entered Australia as the holder of the visa mentioned in paragraph (a)—either or both of the following circumstances applies:

(i) either or both of the following:

(A) the applicant;

(B) a member of the family unit of the sponsoring partner or of the applicant or of both of them;

has suffered family violence committed by the sponsoring partner;

(ii) the applicant:

(A) has custody or joint custody of, or access to; or

(B) has a residence order or contact order made under the *Family Law Act 1975* relating to;

at least 1 child in respect of whom the sponsoring partner:

(C) has been granted joint custody or access by a court; or

(D) has a residence order or contact order made under the *Family Law Act 1975*; or

(E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note: For special provisions relating to family violence, see Division 1.5.

(4A) The applicant meets the requirements of this subclause:

(a) if the applicant held a Subclass 309 (Partner (Provisional)) visa that ceased on notification of a decision of the Minister to refuse a Subclass 100 visa; and

(b) if the Tribunal:

(i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa; or

(ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa.

(5) Paragraphs (2)(c) and (2A)(c) do not apply to an applicant who at the time of making the application was in a long‑term partner relationship with the sponsoring partner.

(6) Paragraphs (2)(c) and (2A)(c) do not apply to an applicant whose sponsoring partner:

(a) is, or was, the holder of a permanent humanitarian visa; and

(b) before that permanent visa was granted, was in a married relationship or de facto relationship with the applicant of which Immigration was informed before that permanent visa was granted.

(7) Nothing in paragraphs (2)(c) and (2A)(c) prevents the Minister, less than 2 years after the application is made, from:

(a) refusing to grant a Subclass 100 visa; or

(b) granting a Subclass 100 visa to an applicant who meets the requirements of subclause (3) or (4).

100.222

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—public interest criterion 4019.

100.224

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 100 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and

(b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 100 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

100.225

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

100.226

If:

(a) at least 2 years have passed since the application was made; and

(b) the applicant does not meet the requirements of subclause 100.221(2A), (3) or (4);

the applicant is nominated for the grant of the Subclass 100 visa by the sponsoring partner.

100.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

100.31—Criteria to be satisfied at time of application

100.311

The applicant is a member of the family unit of a person who has applied for a Partner (Migrant) (Class BC) visa, and the Minister has not decided to grant or refuse to grant a visa to the person.

100.32—Criteria to be satisfied at time of decision

100.321

The applicant:

(a) is the holder of a Subclass 309 (Partner (Provisional)) visa that was granted on the basis that the applicant was a member of the family unit of another person who was the holder of a Subclass 309 visa, and that other person has been granted a Subclass 100 visa; or

(c) is the holder of a Subclass 445 (Dependent Child) visa that was granted on the basis that the applicant was the dependent child of a parent who was the holder of a Subclass 309 or 445 visa and who has been granted a Subclass 100 visa; or

(d) is a person:

(i) who holds:

(A) a Subclass 445 (Dependent Child) visa; or

(B) a Subclass 309 (Spouse (Provisional)) visa; or

(C) a Subclass 309 (Partner (Provisional)) visa;

which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and

(ii) who, at the time the visa mentioned in subparagraph (i) was granted, was the dependent child, or a member of the family unit, as the case requires, of another person:

(A) who, at the time mentioned in subparagraph (ii), was the holder of a Subclass 445 (Dependent Child) or a Subclass 309 (Partner (Provisional)) visa; and

(B) who, since the time mentioned in subparagraph (ii), has been granted a Subclass 100 visa.

100.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

100.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

100.4—Circumstances applicable to grant

100.411

The applicant must be:

(a) in Australia, but not in immigration clearance; or

(b) outside Australia;

when the visa is granted.

100.5—When visa is in effect

100.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

100.6—Conditions

100.611

If the applicant is outside Australia at the time of grant, first entry must be made before a date specified by the Minister for the purpose.

100.612

If the applicant meets the primary criteria and is outside Australia at the time of the grant, condition 8502 may be imposed before the applicant’s first entry to Australia as the holder of the visa.

100.613

If the applicant meets the secondary criteria and is outside Australia at the time of the grant, either or both of conditions 8502 and 8515 may be imposed before the applicant’s first entry to Australia as the holder of the visa.

Subclass 101—Child

101.1—Interpretation

Note: ***eligible New Zealand citizen***, ***dependent child*** and ***step‑child*** are defined in regulation 1.03, ***adoption*** is defined in regulation 1.04, de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A). There are no interpretation provisions specific to this Part.

101.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

101.21—Criteria to be satisfied at time of application

101.211

(1) The applicant:

(a) is a dependent child of:

(i) an Australian citizen; or

(ii) the holder of a permanent visa; or

(iii) an eligible New Zealand citizen; and

(b) subject to subclause (2), has not turned 25; and

(c) either:

(i) is:

(A) the child (other than an adopted child); or

(B) the step‑child within the meaning of paragraph (b) of the definition of ***step‑child***;

of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph (a); or

(ii) was adopted overseas by a person who, at the time of adoption, was not an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, but later became an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen.

(2) Paragraph (1)(b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b)(ii) of the definition of ***dependent child***.

101.212

The applicant is sponsored by a person who:

(a) has turned 18; and

(b) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(c) is:

(i) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 101.211(1); or

(ii) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 101.211(1).

101.213

(1) If the applicant has turned 18:

(a) the applicant:

(i) is not engaged to be married; and

(ii) does not have a spouse or de facto partner; and

(iii) has never had a spouse or de facto partner; and

(b) the applicant is not engaged in full‑time work; and

(c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full‑time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.

(2) Paragraph (1)(c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b)(ii) of the definition of ***dependent child***.

101.22—Criteria to be satisfied at time of decision

101.221

(1) In the case of an applicant who had not turned 18 at the time of application, the applicant:

(a) continues to satisfy the criterion in clause 101.211; or

(b) does not continue to satisfy that criterion only because the applicant has turned 18.

(2) In the case of an applicant who had turned 18 at the time of application:

(a) the applicant:

(i) continues to satisfy the criterion in clause 101.211; or

(ii) does not continue to satisfy that criterion only because the applicant has turned 25; and

(b) the applicant continues to satisfy the criterion in clause 101.213.

101.222

The sponsorship referred to in clause 101.212 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister’s discretion to approve sponsorships.

101.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

101.225

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

101.226

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

101.227

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 101 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and

(b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 101 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

101.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

101.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

101.31—Criteria to be satisfied at the time of application

101.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 101.21.

101.312

The sponsorship referred to in clause 101.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

101.32—Criteria to be satisfied at time of decision

101.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 101 visa.

101.322

The sponsorship referred to in clause 101.312 has been approved by the Minister and is still in force.

101.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

101.325

If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

101.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

101.4—Circumstances applicable to grant

101.411

The applicant must be outside Australia when the visa is granted.

101.5—When visa is in effect

101.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

101.6—Conditions

101.611

First entry must be made before a date specified by the Minister for the purpose.

101.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 102—Adoption

102.1—Interpretation

102.111

In this Part:

***adoptive parent***, in relation to an applicant, means the person referred to in paragraph 102.211(2)(b) or 102.211(5)(b).

***child for adoption*** means an applicant referred to in subclause 102.211(3) or (4).

***prospective adoptive parent***, in relation to an applicant, means:

(a) the unmarried person referred to in subparagraph 102.211(3)(c)(i); or

(b) each of the spouses or de facto partners referred to in subparagraph 102.211(3)(c)(ii); or

(c) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen referred to in paragraph 102.211(4)(c);

as the case requires.

Note: ***eligible New Zealand citizen*** is defined in regulation 1.03, and ***adoption*** is defined in regulation 1.04.

102.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

102.21—Criteria to be satisfied at time of application

102.211

(1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant has not turned 18; and

(b) the applicant was adopted overseas by a person who:

(i) was, at the time of the adoption, an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(ii) had been residing overseas for more than 12 months at the time of the application; and

(c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and

(d) the adoptive parent has lawfully acquired full and permanent parental rights by the adoption.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant has not turned 18; and

(b) the applicant is resident in an overseas country; and

(c) either:

(i) a person who is not in a married relationship or de facto relationship, and who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen has undertaken in writing to adopt the applicant; or

(ii) spouses or de facto partners, at least one of whom is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, have undertaken in writing to adopt the applicant; and

(d) a competent authority in Australia:

(i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or

(ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.

(4) An applicant meets the requirements of this subclause if:

(a) the applicant has not turned 18; and

(b) the applicant is resident in an overseas country; and

(c) a competent authority in the overseas country has allocated the applicant for prospective adoption by a person who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, or such a person and that person’s spouse or de facto partner; and

(d) either:

(i) arrangements for the adoption are in accordance with the Adoption Convention; or

(ii) the adoption is of a kind that may be accorded recognition by regulation 5 of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 1998*; and

(e) a competent authority in Australia:

(i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or

(ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.

(5) An applicant meets the requirements of this subclause if:

(a) the applicant has not turned 18; and

(b) the applicant was adopted in accordance with the Adoption Convention, in an Adoption Convention country, by a person who was an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen when the adoption took place, or by such a person and that person’s spouse or de facto partner.

102.212

The applicant is sponsored by a person who is:

(a) an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(b) in the case of an applicant who is a child for adoption—a prospective adoptive parent of the child; and

(c) in the case of an applicant who is an adopted child—an adoptive parent of the child.

102.213

The laws relating to adoption of the country in which the child is normally resident have been complied with.

102.22—Criteria to be satisfied at time of decision

102.221

The applicant continues to satisfy the criteria in clauses 102.211 and 102.213.

102.222

The sponsorship referred to in clause 102.212 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister’s discretion to approve sponsorships.

102.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021.

102.225

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

102.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 102 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010 and 4020.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 102 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

102.227

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

102.227A

If the applicant has met the requirements of subclause 102.211(3), a competent authority in the overseas country has approved the departure of the applicant:

(a) for adoption in Australia; or

(b) in the custody of the prospective adoptive parent or parents.

102.228

(1) If:

(a) the applicant has met the requirements of subclause 102.211(4) or (5); and

(b) the adoption of the applicant took place overseas—

an adoption compliance certificate is in force in relation to the adoption.

(2) If:

(a) the applicant has met the requirements of subclause 102.211(4); and

(b) the adoption of the applicant is to take place in Australia—

the Minister is satisfied that a competent authority in the overseas country has given permission for the child to leave the overseas country in the care of a prospective adoptive parent for the purpose of adoption in Australia.

102.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

102.31—Criteria to be satisfied at time of application

102.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 102.21.

102.312

The sponsorship referred to in clause 102.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

102.32—Criteria to be satisfied at time of decision

102.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 102 visa.

102.322

The sponsorship referred to in clause 102.312 has been approved by the Minister and is still in force.

102.323

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021.

102.325

If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

102.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

102.4—Circumstances applicable to grant

102.411

The applicant must be outside Australia when the visa is granted.

102.5—When visa is in effect

102.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

102.6—Conditions

102.611

First entry must be made before a date specified by the Minister for the purpose.

102.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 103—Parent

103.1—Interpretation

Note: ***eligible New Zealand citizen***,***aged parent***,***close relative***, ***guardian*** and ***settled*** are defined in regulation 1.03, ***balance of family test*** is defined in regulation 1.05, ***parent*** is defined in subsection 5(1) of the Act, de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

103.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

103.21—Criteria to be satisfied at time of application

103.211

The applicant is a parent of a person who is:

(a) a settled Australian citizen; or

(b) a settled Australian permanent resident; or

(c) a settled eligible New Zealand citizen.

103.212

(1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:

(a) the child; or

(b) the child’s cohabiting spouse or de facto partner, if that spouse or de facto partner:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

(a) the child’s cohabiting spouse, if that spouse:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(b) a person who:

(i) is a relative or guardian of the child; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:

(i) is a relative or guardian of the child’s spouse; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(d) a community organisation.

(4) In this clause, ***the child*** means the settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen referred to in clause 103.211.

103.213

The applicant satisfies the balance of family test.

103.22—Criteria to be satisfied at time of decision

103.221

The applicant continues to satisfy the criterion in clause 103.211.

103.222

A sponsorship of the kind mentioned in clause 103.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister’s approval for a change of sponsor as long as the new sponsor meets the description in clause 103.212.

103.224

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

103.225

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

103.226

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

103.227

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 103 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 103 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

103.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

103.229

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

103.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

103.31—Criteria to be satisfied at time of application

103.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 103.21.

103.312

A sponsorship of the kind mentioned in clause 103.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant.

103.32—Criteria to be satisfied at time of decision

103.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 103 visa.

103.322

A sponsorship of the kind mentioned in clause 103.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant;

whether or not the sponsor was the sponsor when the Minister first approved a sponsorship.

103.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

103.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

103.325

The Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

103.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

103.327

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

103.4—Circumstances applicable to grant

103.411

The applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

103.5—When visa is in effect

103.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

103.6—Conditions

103.611

First entry must be made before a date specified by the Minister for the purpose.

103.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 114—Aged Dependent Relative

114.1—Interpretation

Note: ***aged dependent relative***, ***dependent child***, ***eligible New Zealand citizen*** and ***settled*** are defined in regulation 1.03, de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

114.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

114.21—Criteria to be satisfied at time of application

114.211

The applicant is an aged dependent relative of a person who is:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen.

114.212

(1) The applicant is sponsored:

(a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen—by the Australian relative; or

(b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:

(i) cohabits with the Australian relative; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) has turned 18.

(2) In this clause, ***the Australian relative*** means the person mentioned in clause 114.211 of whom the applicant is an aged dependent relative.

114.22—Criteria to be satisfied at time of decision

114.221

The applicant continues to satisfy the criterion in clause 114.211.

114.222

The sponsorship referred to in clause 114.212 has been approved by the Minister and is still in force.

114.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021.

114.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

114.225

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

114.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 114 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 114 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

114.227

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

114.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

114.31—Criteria to be satisfied at time of application

114.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 114.21.

114.312

The sponsorship referred to in clause 114.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

114.32—Criteria to be satisfied at time of decision

114.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 114 visa.

114.322

The sponsorship referred to in clause 114.312 has been approved by the Minister and is still in force.

114.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

114.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

114.325

The Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

114.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

114.4—Circumstances applicable to grant

114.411

The applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

114.5—When visa is in effect

114.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

114.6—Conditions

114.611

First entry must be made before a date specified by the Minister for the purpose.

114.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 115—Remaining Relative

115.1—Interpretation

Note: ***Australian relative***, ***dependent child***, ***eligible New Zealand citizen*** and ***settled***are defined in regulation 1.03. ***Remaining relative*** is defined in regulation 1.15. de facto ***partner*** is defined in section 5CB of the Act (also see regulations 1.09A and 2.03A) and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

115.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

115.21—Criteria to be satisfied at time of application

115.211

The applicant is a remaining relative of an Australian relative for the applicant.

115.212

The applicant is sponsored:

(a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen—by the Australian relative; or

(b) by the spouse or de facto partner of the Australian relative if:

(i) the spouse or de facto partner cohabits with the relative; and

(ii) the spouse or de facto partner is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) the spouse or de facto partner has turned 18.

115.22—Criteria to be satisfied at time of decision

115.221

The applicant continues to satisfy the criterion in clause 115.211.

115.222

A sponsorship of the kind mentioned in clause 115.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister’s approval for a change of sponsor as long as the new sponsor meets the description in clause 115.212.

115.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

115.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

115.225

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

115.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 115 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 115 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

115.227

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

115.229

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

115.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

115.31—Criteria to be satisfied at time of application

115.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 115.21.

115.312

A sponsorship of the kind mentioned in clause 115.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant.

115.32—Criteria to be satisfied at time of decision

115.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 115 visa.

115.322

A sponsorship of the kind mentioned in clause 115.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant;

whether or not the sponsor was the sponsor at the time of application.

115.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

115.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

115.325

The Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

115.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

115.4—Circumstances applicable to grant

115.411

The applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

115.5—When visa is in effect

115.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

115.6—Conditions

115.611

First entry must be made before a date specified by the Minister for the purpose.

115.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 116—Carer

116.1—Interpretation

Note: ***dependent child*** and ***eligible New Zealand citizen*** are defined in regulation 1.03, ***carer*** is defined in regulation 1.15AA, de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

116.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

116.21—Criteria to be satisfied at time of application

116.211

(1) The applicant claims to be a carer of an Australian relative of the applicant.

(2) In this clause, ***Australian relative***, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

116.212

The applicant is sponsored:

(a) by the Australian relative mentioned in clause 116.211 if that relative has turned 18; or

(b) by the spouse or de facto partner of the Australian relative if:

(i) the spouse or de facto partner cohabits with the relative; and

(ii) the spouse or de facto partner is an Australian citizen or an Australian permanent resident or an eligible New Zealand citizen; and

(iii) the spouse or de facto partner has turned 18.

116.22—Criteria to be satisfied at time of decision

116.221

The applicant is a carer of the Australian relative mentioned in clause 116.211.

116.222

The sponsorship referred to in clause 116.212 has been approved by the Minister and is still in force.

116.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

116.224

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 116 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 116 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

116.227

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

116.229

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

116.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

116.31—Criteria to be satisfied at time of application

116.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 116.21.

116.312

The sponsorship referred to in clause 116.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

116.32—Criteria to be satisfied at time of decision

116.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 116 visa.

116.322

The sponsorship referred to in clause 116.312 has been approved by the Minister and is still in force.

116.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

116.324

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

116.4—Circumstances applicable to grant

116.411

The applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

116.5—When visa is in effect

116.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

116.6—Conditions

116.611

First entry must be made before a date specified by the Minister for the purpose.

116.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 117—Orphan Relative

117.1—Interpretation

117.111

In this Part:

***Australian relative*** means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: ***dependent child***, ***eligible New Zealand citizen***, ***relative*** and ***settled*** are defined in regulation 1.03, ***orphan relative*** is defined in regulation 1.14,***de facto partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

117.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

117.21—Criteria to be satisfied at time of application

117.211

The applicant:

(a) is an orphan relative of an Australian relative of the applicant; or

(b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).

117.212

The applicant is sponsored:

(a) by the Australian relative, if the relative:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or

(b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) cohabits with the Australian relative.

117.22—Criteria to be satisfied at time of decision

117.221

The applicant:

(a) continues to satisfy the criterion in clause 117.211; or

(b) does not continue to satisfy that criterion only because the applicant has turned 18.

117.222

The sponsorship referred to in clause 117.212 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister’s discretion to approve sponsorships.

117.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

117.224

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

117.225

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 117 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 117 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

117.226

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

117.227

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

117.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

117.31—Criteria to be satisfied at time of application

117.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 117.21.

117.312

The sponsorship referred to in clause 117.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

117.32—Criteria to be satisfied at time of decision

117.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 117 visa.

117.322

The sponsorship referred to in clause 117.312 has been approved by the Minister and is still in force.

117.323

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

117.324

If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

117.325

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

117.4—Circumstances applicable to grant

117.411

The applicant must be outside Australia when the visa is granted.

117.5—When visa is in effect

117.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

117.6—Conditions

117.611

First entry must be made before a date specified by the Minister for the purpose.

117.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 124—Distinguished Talent

124.1—Interpretation

Note: ***eligible New Zealand citizen*** is defined in regulation 1.03. No interpretation provisions specific to this Part.

124.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

124.21—Criteria to be satisfied at time of application

124.211

(1) The applicant meets the requirements of subclause (2) or (4).

(2) The applicant:

(a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:

(i) a profession;

(ii) a sport;

(iii) the arts;

(iv) academia and research; and

(b) is still prominent in the area; and

(c) would be an asset to the Australian community; and

(d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and

(e) produces a completed approved form 1000; and

Note: An approved form 1000 requires the applicant’s record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen; or

(d) an Australian organisation;

who has a national reputation in relation to the area.

(f) if the applicant has not turned 18, or is at least 55 years old, at the time of application—would be of exceptional benefit to the Australian community.

(4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:

(a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or

(b) the Director‑General of Security;

the applicant has provided specialised assistance to the Australian Government in matters of security.

124.22—Criteria to be satisfied at time of decision

124.221

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

124.222

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

124.224

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 124 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 124 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

124.225

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

124.226

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

124.3—Secondary criteria

Note 1: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2: For an applicant for a Distinguished Talent (Migrant) (Class AL) visa who has not turned 18, subregulation 1.12 (6) sets out a specific definition of ***member of the family unit*** in addition to the operation of subregulation 1.12(1). For an applicant who has turned 18, see subregulation 1.12(1).

124.31—Criteria to be satisfied at time of application

124.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies or has satisfied the primary criteria in Subdivision 124.21.

124.32—Criteria to be satisfied at time of decision

124.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 124 visa.

124.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

124.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

124.325

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

124.4—Circumstances applicable to grant

124.411

The applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

124.5—When visa is in effect

124.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from date of grant.

124.6—Conditions

124.611

First entry must be made before a date specified by the Minister for the purpose.

124.612

Condition 8502 may be imposed.

Subclass 132—Business Talent

132.1—Interpretation

Note 1: For ***AUD***, ***eligible business***, ***fiscal year***, ***ownership interest*** and ***qualifying business***: see regulation 1.03.

Note 2: ***main business*** is defined in regulation 1.11.

Note 3: For ***beneficial ownership*** of an asset or ownership interest: see regulation 1.11A.

Note 4: There are no interpretation provisions specific to this Part.

132.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 132 visa include criteria set out in streams.

If an applicant applies for a Subclass 132 visa in the Significant Business History stream, the criteria in Subdivisions 132.21 and 132.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 132 visa in the Venture Capital Entrepreneur stream, the criteria in Subdivisions 132.21 and 132.23 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

132.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 132 visa.

132.211

The applicant, and the applicant’s spouse or de facto partner, do not have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

132.212

The nominating State or Territory government agency has not withdrawn the nomination.

132.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 132 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 132 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the primary applicant who:

(a) is an applicant for a Subclass 132 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 132 visa:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

132.214

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 132 visa satisfies special return criteria 5001, 5002 and 5010.

132.22—Criteria for Significant Business History stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 132 visa in the Significant Business History stream.

132.221

The applicant was invited, in writing, by the Minister to apply for the visa.

132.222

The applicant:

(a) had not turned 55 at the time of invitation to apply for the visa; or

(b) is proposing to establish or participate in a business that the nominating State or Territory government agency has determined is of exceptional economic benefit to the State or Territory in which the agency is located.

132.223

The applicant has overall had a successful business career.

132.224

For at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa:

(a) the net value of the assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in a qualifying business or qualifying businesses in which the applicant had an ownership interest was at least AUD400 000; and

(b) if a qualifying business mentioned in paragraph (a) was operated by a publicly listed company, the shareholding of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was at least 10% of the total issued capital of the company.

132.225

For at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa, the applicant’s main business, or the applicant’s main businesses together, had an annual turnover of at least AUD3 000 000.

132.226

The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) have a net value of at least AUD1 500 000; and

(b) are lawfully acquired; and

(c) are available for transfer to Australia within 2 years after the grant of a Subclass 132 visa.

132.227

(1) The applicant genuinely has a realistic commitment to:

(a) establish a qualifying business in Australia; or

(b) participate in an existing qualifying business in Australia.

(2) The applicant genuinely has a realistic commitment to:

(a) maintain a substantial ownership interest in the qualifying business mentioned in subclause (1); and

(b) maintain a direct and continuous involvement in the management of the qualifying business from day to day, and in the making of decisions that affect the overall direction and performance of the qualifying business, in a manner that benefits the Australian economy.

132.23—Criteria for Venture Capital Entrepreneur stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 132 visa in the Venture Capital Entrepreneur stream.

132.231

The applicant was invited, in writing, by the Minister to apply for the visa.

132.232

(1) The applicant has entered into a legally enforceable agreement with an Australian company to receive venture capital funding for:

(a) the early‑phase start‑up of a business in Australia; or

(b) the commercialisation of a product in Australia; or

(c) the development of a business in Australia; or

(d) the expansion of a business in Australia.

(2) The amount to be provided under the agreement is at least AUD1 000 000.

(3) The Australian company:

(a) is a member of an industry association or similar body specified by the Minister in an instrument in writing for this paragraph; and

(b) holds a category of membership of the industry association or similar body specified by the Minister in an instrument in writing for this paragraph.

132.233

The nominating State or Territory government agency is satisfied that the net value of the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is sufficient to allow them to settle in Australia.

132.234

(1) The applicant genuinely has a realistic commitment to:

(a) establish an eligible business in Australia; or

(b) participate in an existing eligible business in Australia.

(2) The applicant genuinely has a realistic commitment to:

(a) maintain a substantial ownership interest in the eligible business mentioned in subclause (1); and

(b) maintain a direct and continuous involvement in the management of the eligible business from day to day, and in the making of decisions that affect the overall direction and performance of the eligible business, in a manner that benefits the Australian economy.

132.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

132.31—Criteria

132.311

The applicant:

(a) is a member of the family unit of a person who holds a Subclass 132 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with that person.

132.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

132.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

132.4—Circumstances applicable to grant

132.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

132.5—When visa is in effect

132.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

132.6—Conditions

132.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Subclass 143—Contributory Parent

143.1—Interpretation

143.111

In this Part, a reference to an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa means a person:

(a) who, at the time of application, holds a Subclass 173 (Contributory Parent (Temporary)) visa; or

(b) who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or

(c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application.

Note: ***Australian permanent resident***, ***aged parent***, ***eligible New Zealand citizen***, ***close relative***, ***guardian***, ***parent visa*** and ***settled*** are defined in regulation 1.03, ***balance of family test*** is defined in regulation 1.05, ***parent*** is defined in subsection 5(1) of the Act (also see regulation 1.14A), de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

143.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

143.21—Criteria to be satisfied at time of application

143.211

(1) The applicant is:

(a) a parent of a person (the ***child***) who is:

(i) a settled Australian citizen; or

(ii) a settled Australian permanent resident; or

(iii) a settled eligible New Zealand citizen; or

(b) a person who:

(i) either:

(A) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or

(B) both:

(I) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and

(II) is the holder of a substituted Subclass 600 visa at the time of application; and

(ii) is no longer the parent of a child described in paragraph (a) because the child has died; and

(iii) is not the parent of another child described in paragraph (a).

(2) If the applicant:

(a) is in Australia at the time of application; and

(b) is not the holder of a substantive visa;

the applicant satisfies criterion 3002.

143.212

(1) The applicant is:

(a) sponsored in accordance with subclause (2) or (3); or

(b) taken, under subclause (4), to be sponsored in accordance with this clause.

(2) If the child has turned 18, the applicant is sponsored by:

(a) the child; or

(b) the child’s cohabiting spouse or de facto partner, if that spouse or de facto partner:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

(a) the child’s cohabiting spouse, if that spouse:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(b) a person who:

(i) is a relative or guardian of the child; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:

(i) is a relative or guardian of the child’s spouse; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(d) a community organisation.

(4) The applicant is taken to be sponsored in accordance with this clause if:

(a) the applicant:

(i) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or

(ii) both:

(A) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and

(B) is the holder of a substituted Subclass 600 visa at the time of application; and

(b) the person who sponsored the applicant for the Subclass 173 (Contributory Parent (Temporary)) visa dies before the Subclass 173 (Contributory Parent (Temporary)) visa ceases to be in effect; and

(c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).

143.213

For an applicant who, at the time of application, is neither:

(a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; nor

(b) the holder of a substituted Subclass 600 visa;

the applicant satisfies the balance of family test.

143.22—Criteria to be satisfied at time of decision

143.221

The applicant continues to meet the requirements set out in clause 143.211.

143.222

If a sponsorship of the kind mentioned in subclause 143.212(2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:

(a) the sponsor at the time of application; or

(b) another sponsor who meets the requirements set out in subclause 143.212(2) or (3);

whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister’s approval for a change of sponsor as long as the new sponsor meets the description in subclause 143.212(2) or (3).

143.222A

If clause 143.222 does not apply:

(a) the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; and

(b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 143 (Contributory Parent) visa; and

(c) there is no other sponsor available who meets the requirements set out in subclause 143.212(2) or (3).

143.224

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

143.225

If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

| Item | If the applicant was … | the public interest criteria to be satisfied by the applicant are ... |
| --- | --- | --- |
| 1 | not the holder of a substituted Subclass 600 visa at the time of application | 4004, 4005, 4009 and 4010 |
| 2 | the holder of a substituted Subclass 600 visa at the time of application | (a) 4009 and 4010; and  (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate |

143.225A

Each member of the family unit of the applicant who is an applicant for a Subclass 143 visa is a person who satisfies public interest criterion 4020.

143.226

If the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

143.227

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

143.228

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

143.229

If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is an applicant for a Subclass 143 (Contributory Parent) visa:

(a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and

(b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

| Item | If the applicant … | the public interest criteria to be satisfied by the member of the family unit are … | and if the member of the family unit has previously been in Australia, the special return criteria are … |
| --- | --- | --- | --- |
| 1 | was not the holder of a substituted Subclass 600 visa at the time of application | (a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and  (b) if the applicant had turned 18 at the time of application—4019 | 5001, 5002 and 5010 |
| 2 | was the holder of a substituted Subclass 600 visa at the time of application | (a) 4001, 4002, 4003, 4009 and 4010; and  (b) either:  (i) 4007; or  (ii) if the member of the family unit has previously held a Subclass 173 visa—such health checks as the Minister considers appropriate; and  (c) if the applicant had turned 18 at the time of application—4019 | 5001, 5002 and 5010 |

143.230

If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 143 (Contributory Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

| Item | If the applicant was … | the public interest criteria to be satisfied by the member of the family unit are ... |
| --- | --- | --- |
| 1 | not the holder of a substituted Subclass 600 visa at the time of application | (a) 4001, 4002, 4003 and 4004; and  (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion |
| 2 | the holder of a substituted Subclass 600 visa at the time of application | (a) 4001, 4002 and 4003; and  (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion |

143.231

If a person (the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

143.232

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

143.3—Secondary criteria

143.31—Criteria to be satisfied at time of application

143.311

Either:

(a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 143.21; or

(b) each of the following applies:

(i) the applicant is a member of the family unit of a person (the ***other applicant***) who:

(A) has applied for a Contributory Parent (Migrant) (Class CA) visa; and

(B) was in Australia at the time of application; and

(C) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 143.21;

(ii) the other applicant is the holder of:

(A) a Subclass 173 (Contributory Parent (Temporary)) visa; or

(B) a substituted Subclass 600 visa;

(iii) the Minister has not decided to grant or refuse to grant the visa to the other applicant;

(iv) the applicant was in Australia at the time at which the applicant made the application for the Contributory Parent (Migrant) (Class CA) visa.

143.312

One of the following applies:

(a) the sponsorship mentioned in subclause 143.212(2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;

(b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 143.212 (4);

(c) the applicant is a contributory parent newborn child who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application and:

(i) the contributory parent newborn child’s parent was granted a Subclass 143 (Contributory Parent) visa on the basis of meeting paragraph 143.222(b); or

(ii) the person who sponsored the contributory parent newborn child’s parent for the Subclass 143 (Contributory Parent) visa died after that visa was granted.

143.32—Criteria to be satisfied at time of decision

143.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 143 visa.

143.322

One of the following applies:

(a) the sponsorship, mentioned in paragraph 143.222(a), that includes sponsorship of the applicant:

(i) has been approved by the Minister in relation to the applicant; and

(ii) is still in force in relation to the applicant;

(b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 143.222(b) at the time of decision, and the applicant meets those requirements at the time of decision;

(c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 143.312(c).

143.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

143.324

If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

| Item | If the applicant is a member of the family unit of a person who is mentioned in clause 143.321, and the person was … | the public interest criteria to be satisfied by the applicant are ... |
| --- | --- | --- |
| 1 | not the holder of a substituted Subclass 600 visa at the time of application | 4004, 4005, 4009 and 4010 |
| 2 | the holder of a substituted Subclass 600 visa at the time of application | (a) 4009 and 4010; and  (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate |

143.325

For an applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

143.326

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

143.327

The Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

143.328

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

143.329

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

143.4—Circumstances applicable to grant

143.411

If the applicant is, at the time of application:

(a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; or

(b) the holder of a substituted Subclass 600 visa; or

(c) a member of the family unit of an applicant who holds a substituted Subclass 600 visa; or

(d) an applicant:

(i) who is a member of the family unit of a person who is the holder of a Contributory Parent (Temporary) (Class UT) visa; and

(ii) to whom paragraph 143.311(b) applies;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

143.412

If clause 143.411 does not apply to the applicant at the time of application, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

143.5—When visa is in effect

143.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years after the date of grant.

143.6—Conditions

143.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

143.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 151—Former Resident

Note: This Subclass applies in relation to an application for a visa made on or after 1 November 2005.

Subclass 151 visas that relate to the former Special Eligibility (Migrant) (Class AR) visa will not be available to applicants who apply on or after 1 November 2005.

151.1—Interpretation

In this Part:

***Australian defence service*** means:

(a) service in the Military Forces of the Commonwealth under a notice served under section 26 of the *National Service Act 1951* as in force at any time before 26 November 1964; or

(b) service before 19 January 1981:

(i) in the Permanent Forces; or

(ii) by a member of the armed forces of a foreign country on secondment to, or duty with, the Permanent Forces if the member was a permanent resident of Australia during the period of service.

***defence service applicant*** means an applicant who satisfies the Minister that he or she:

(a) has completed at least 3 months continuous Australian defence service; or

(b) was discharged before completing 3 months of Australian defence service because the applicant was medically unfit for service, or further service, and became medically unfit because of the applicant’s Australian defence service.

***long residence applicant*** means an applicant who satisfies the Minister that he or she:

(a) spent the greater part of his or her life before the age of 18 in the migration zone as an Australian permanent resident; and

(b) did not at any time acquire Australian citizenship; and

(c) has maintained business, cultural or personal ties with Australia; and

(d) has not turned 45 at the time of application.

***the Permanent Forces*** has the same meaning as it has in the *Defence Act 1903*.

151.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

151.21—Criteria to be satisfied at time of application

151.211

If the applicant is in Australia, either:

(a) the applicant is the holder of a substantive visa, other than a Subclass 771 (Transit) visa; or

(b) the applicant:

(i) is not the holder of a substantive visa, and immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and

(ii) satisfies Schedule 3 criterion 3002.

151.212

The applicant is a long residence applicant or a defence service applicant.

151.22—Criteria to be satisfied at time of decision

151.221

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

151.222

If the applicant is a long residence applicant who is outside Australia, the applicant also satisfies public interest criterion 4005.

151.223

If the applicant is:

(a) a long residence applicant who is in Australia; or

(b) a defence service applicant;

the applicant also satisfies public interest criterion 4007.

151.224

If the applicant is under 18, the applicant also satisfies public interest criteria 4017 and 4018.

151.225

If the applicant is a long residence applicant who is outside Australia:

(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4005; and

(b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

(ii) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and

(c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.

151.226

If the applicant is a long residence applicant who is in Australia:

(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and

(b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(ii) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and

(c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.

151.227

If the applicant is a defence service applicant:

(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and

(b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(ii) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

151.227A

If the applicant is a defence service applicant who is outside Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.

151.227B

If the applicant is a defence service applicant who is in Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.

151.228

If a person (an additional applicant):

(a) is a member of the family unit of the applicant; and

(b) is also an applicant for a Special Eligibility (Class CB) visa; and

(c) has not turned 18;

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

151.229

If the applicant:

(a) is in Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

151.229A

If the applicant:

(a) is outside Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001, 5002 and 5010.

151.229B

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

151.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

151.31—Criteria to be satisfied at time of application

151.311

The applicant is a member of the family unit of a person who:

(a) has applied for a Special Eligibility (Class CB) visa; and

(b) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 151.21;

and the Minister has not decided to grant or refuse to grant a visa to the person.

151.32—Criteria to be satisfied at time of decision

151.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa.

151.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

151.323

If the applicant is a member of the family unit of a person who:

(a) was a long residence applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; and

(b) was outside Australia at the time of the person’s application;

the applicant also satisfies public interest criterion 4005.

151.324

If the applicant is a member of the family unit of a person who:

(a) was a long residence applicant in Australia who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; or

(b) was a defence service applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa;

the applicant also satisfies public interest criterion 4007.

151.325

If the applicant has not turned 18, the applicant also satisfies public interest criteria 4017 and 4018.

151.326

If the applicant:

(a) is in Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

151.327

If the applicant:

(a) is outside Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criterion 5001, 5002 and 5010.

151.328

If the Minister has requested an assurance of support in relation to the person who satisfied the primary criteria, the Minister is satisfied that:

(a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or

(b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

151.4—Circumstances applicable to grant

151.411

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

151.412

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

151.5—When visa is in effect

151.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

151.6—Conditions

151.611

For an applicant who was outside Australia at the time of application:

(a) first entry must be made before a date specified by the Minister for the purpose; and

(b) condition 8502 may be imposed.

Note: No conditions have been prescribed for other applicants.

Subclass 155—Five Year Resident Return

155.1—Interpretation

Note: ***Australian permanent resident*** is defined in regulation 1.03.

155.2—Primary criteria

Note: All applicants must meet the primary criteria.

155.21—Criteria to be satisfied at time of application

155.211

The applicant:

(a) is an Australian permanent resident; or

(b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or

(c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.

155.212

(1) The applicant meets the requirements of subclause (2), (3), (3A) or (4).

(2) The applicant meets the requirements of this subclause if the applicant was lawfully present in Australia for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:

(a) was:

(i) the holder of a permanent visa or a permanent entry permit; or

(ii) an Australian citizen; and

(b) was not the holder of:

(i) a temporary visa (other than a Subclass 601 (Electronic Travel Authority) visa, a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant—Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant—Short Validity) visa held concurrently with the permanent visa or the permanent entry permit); or

(ii) a bridging visa.

(3) The applicant meets the requirements of this subclause if the applicant is outside Australia, and the Minister is satisfied that the applicant has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia, and the applicant:

(a) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence, and the applicant:

(i) holds a permanent visa; or

(ii) last departed Australia as an Australian permanent resident; or

(iii) last departed Australia as an Australian citizen, but has subsequently lost or renounced Australian citizenship; or

(b) was an Australian citizen, or an Australian permanent resident, less than 10 years before the application, and has not been absent from Australia for a period of, or periods that total, more than 5 years in the period from the date that the applicant last departed Australia as an Australian citizen or Australian permanent resident to the date of the application, unless there are compelling reasons for the absence.

(3A) The applicant meets the requirements of this subclause if the applicant is in Australia, and the Minister is satisfied that the applicant:

(a) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and

(b) has not been absent from Australia for a continuous period of 5 years or more since:

(i) the date of grant of the applicant’s most recent permanent visa, unless there are compelling reasons for the absence; or

(ii) the date on which the applicant ceased to be a citizen, unless there are compelling reasons for the absence.

(4) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:

(a) has been granted a Subclass 155 visa and that visa is still in effect; or

(b) meets the requirements of subclause (2), (3) or (3A) and has lodged a separate application for a Return (Residence) (Class BB) visa.

Note: Under clause 155.511:

(a) if the applicant is a member of the family unit of a person whose Subclass 155 visa will be in effect for one year or less, the applicant will be granted a visa permitting the holder to travel to and enter Australia for the period of effect; and

(b) if the applicant is a member of the family unit of a person whose Subclass 155 visa will be in effect for more than one year, the applicant will be granted a visa permitting the holder to travel to and enter Australia for one year from the date of grant.

155.22—Criteria to be satisfied at time of decision

155.221

If the applicant is outside Australia, the applicant satisfies special return criterion 5001.

155.222

The applicant satisfies public interest criterion 4021.

155.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

155.4—Circumstances applicable to grant

155.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

155.412

If the application is made in Australia, the applicant may be in or outside Australia, but not in immigration clearance, at the time of grant.

155.5—When visa is in effect

155.511

Permanent visa permitting the holder to travel to and enter Australia for:

(a) if:

(i) subclause 155.212(4) applies to the applicant; and

(ii) the period of the Subclass 155 visa mentioned in that subclause is one year or less;

the period of the Subclass 155 visa; or

(aa) if:

(i) subclause 155.212(4) applies to the applicant; and

(ii) the period of the Subclass 155 visa mentioned in that subclause is more than one year;

one year; or

(b) if the applicant met the requirements of clause 155.211 and subclause 155.212(2) at the time of application—a period of 5 years from the date of grant; or

(c) in any other case:

(i) a period of one year from the date of the grant; or

(ii) a shorter period determined by the Minister.

155.6—Conditions: Nil.

Subclass 157—Three Month Resident Return

157.1—Interpretation

Note: ***Australian permanent resident*** is defined in regulation 1.03.

157.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

157.21—Criteria to be satisfied at time of application

157.211

The applicant:

(a) is an Australian permanent resident; or

(b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or

(c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.

157.212

(1) The applicant meets the requirements of subclause (2) or (3).

(2) The applicant meets the requirements of this subclause if the applicant:

(a) was lawfully present in Australia for a period of, or periods that total, not less than 1 day but less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:

(i) was:

(A) the holder of a permanent visa or a permanent entry permit; or

(B) an Australian citizen; and

(ii) was not the holder of:

(A) a temporary visa (other than a Subclass 601 (Electronic Travel Authority) visa, a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant—Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant—Short Validity) visa held concurrently with the permanent visa or the permanent entry permit); or

(B) a bridging visa; and

(b) either:

(i) has compelling and compassionate reasons for departing Australia; or

(ii) if outside Australia, had compelling and compassionate reasons for his or her last departure from Australia.

(3) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:

(a) has been granted a Subclass 157 visa and that visa is still in effect; or

(b) meets the requirements of subclause (2) and has lodged a separate application for a Return (Residence) (Class BB) visa.

157.213

If the applicant is outside Australia, the applicant has not been absent from Australia for a continuous period of more than 3 months immediately before making the application for the visa, unless the Minister is satisfied that there are compelling and compassionate reasons for the absence.

157.22—Criteria to be satisfied at time of decision

157.221

If the applicant is outside Australia, the applicant satisfies special return criterion 5001.

157.222

The applicant satisfies public interest criterion 4021.

157.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

157.4—Circumstances applicable to grant

157.411

If the application is made outside Australia, the applicant must be outside Australia at time of grant.

157.412

If the application is made in Australia, the applicant may be in or outside Australia, but not in immigration clearance, at the time of grant.

157.5—When visa is in effect

157.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 3 months from the date of grant.

157.6—Conditions: Nil.

Subclass 159—Provisional Resident Return

159.1—Interpretation

Note: ***Australian permanent resident*** is defined in regulation 1.03.

159.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

159.21—Criteria to be satisfied at time of application

159.211

The applicant claims, but is unable to prove, that immediately before going overseas he or she was:

(a) an Australian permanent resident; or

(b) an Australian citizen who was usually resident in Australia.

159.212

If the applicant could prove that claim, the applicant would satisfy the criteria for the grant of a Subclass 155 or 157 visa.

159.212A

The Minister is satisfied that the applicant is not an Australian citizen.

159.213

The applicant gives the Minister a written statement that satisfies the Minister that:

(a) the applicant has urgent and compelling reasons for travelling to Australia before proving the claim; and

(b) entry of the applicant to Australia before the claim is proved will not prejudice the interests of Australia; and

(c) there are reasonable grounds for believing that the claim can be proved.

159.22—Criteria to be satisfied at time of decision

159.221

There is no evidence that the applicant does not satisfy special return criteria 5001, 5002 and 5010.

159.222

The applicant satisfies public interest criterion 4021.

159.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

159.4—Circumstances applicable to grant

159.411

The applicant must be outside Australia when the visa is granted.

159.5—When visa is in effect

159.511

Temporary visa permitting the holder to travel to and enter Australia once only within 3 months of grant and to remain in Australia for 3 months.

159.6—Conditions

159.611

The holder must travel to and enter Australia within 3 months of grant of the visa.

Subclass 160—Business Owner (Provisional)

160.1—Interpretation

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03 and ***main business*** is defined in regulation 1.11.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3: There are no interpretation provisions specific to this Part.

160.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

160.21—Criteria to be satisfied at time of application

160.211

The applicant has overall had a successful business career.

160.212

For at least 2 of the 4 fiscal years immediately before the application is made:

(a) the net value of the assets of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together;

in a qualifying business or qualifying businesses in which the applicant had an ownership interest was at least AUD200 000; and

(b) if a qualifying business mentioned in paragraph (a) was operated by a publicly listed company, the shareholding of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together;

was at least 10% of the total issued capital of the company.

160.213

For at least 2 of the 4 fiscal years immediately before the application is made, the applicant’s main business, or the applicant’s main businesses together, had an annual turnover of at least AUD500 000.

160.214

(1) The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) have a net value of at least AUD800 000; and

(b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 160 visa.

(2) The applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the Minister is satisfied are of a sufficient net value to settle in Australia.

160.215

The applicant is less than 45 years old.

160.216

The applicant has vocational English within the meaning given by regulation 1.15B.

160.217

If the applicant was engaged, for at least 2 of the 4 fiscal years immediately before the application is made, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

160.218

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

160.219

The applicant has notified the appropriate regional authority of a State or Territory of:

(a) the applicant’s business history; and

(b) the applicant’s intention to develop a business in that State or Territory.

160.219A

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 160 visa:

(a) either:

(i) to establish a qualifying business in Australia; or

(ii) to participate in an existing qualifying business in Australia; and

(b) to maintain a substantial ownership interest in that business; and

(c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

160.219B

The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

160.219C

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 160 visa.

160.22—Criteria to be satisfied at time of decision

160.221

The applicant continues to satisfy the criteria in clauses 160.211, 160.214, 160.218, 160.219A and 160.219B.

160.222

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

160.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

160.224

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 160 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 160 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

160.225

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

160.226

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

160.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

160.31—Criteria to be satisfied at time of application

160.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 160.21; or

(b) holds a Subclass 160 visa.

160.32—Criteria to be satisfied at time of decision

160.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 160 visa.

160.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

160.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

160.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

160.4—Circumstances applicable to grant

160.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

160.5—When visa is in effect

160.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

160.6—Conditions

160.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

160.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 161—Senior Executive (Provisional)

161.1—Interpretation

161.111

In this Part:

***major business*** means a business (other than a government business enterprise) the annual turnover of which was at least AUD50 000 000 for at least 2 of the 4 fiscal years immediately before the application is made.

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

161.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

161.21—Criteria to be satisfied at time of application

161.211

The applicant has overall had a successful business career.

161.212

For a total of at least 2 years in the 4 years immediately before the application is made, the applicant:

(a) occupied a position in the 3 highest levels of the management structure of a major business; and

(b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

161.213

(1) The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) have a net value of at least AUD800 000; and

(b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 161 visa to the applicant.

(2) The applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the Minister is satisfied are of a sufficient net value to settle in Australia.

161.214

The applicant is less than 45 years old.

161.215

The applicant has vocational English within the meaning given by regulation 1.15B.

161.216

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

161.217

The applicant has notified the appropriate regional authority of a State or Territory of:

(a) the applicant’s business history; and

(b) the applicant’s intention to develop a business in that State or Territory.

161.218

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 161 visa:

(a) either:

(i) to establish a qualifying business in Australia; or

(ii) to participate in an existing qualifying business in Australia; and

(b) to maintain a substantial ownership interest in that business; and

(c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

161.219

The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

161.219A

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 161 visa.

161.22—Criteria to be satisfied at time of decision

161.221

The applicant continues to satisfy the criteria in clauses 161.211, 161.213, 161.216, 161.218 and 161.219.

161.222

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

161.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

161.224

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 161 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 161 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

161.225

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

161.226

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

161.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

161.31—Criteria to be satisfied at time of application

161.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 161.21; or

(b) holds a Subclass 161 visa.

161.32—Criteria to be satisfied at time of decision

161.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 161 visa.

161.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

161.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

161.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

161.4—Circumstances applicable to grant

161.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

161.5—When visa is in effect

161.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

161.6—Conditions

161.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

161.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 162—Investor (Provisional)

162.1—Interpretation

162.111

In this Part:

***designated investment*** means an investment in a security specified by the Minister under regulation 5.19A for this Part.

***eligible investment***, for a person, means:

(a) an ownership interest in a business; or

(b) a loan to a business; or

(c) cash on deposit; or

(d) stocks and bonds; or

(e) real estate; or

(f) gold or silver bullion;

that is owned by the person for the purpose of producing a return by way of income or capital gain and is not held for personal use.

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset, eligible investment or ownership interest, see regulation 1.11A.

162.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

162.21—Criteria to be satisfied at time of application

162.211

The applicant has demonstrated overall a successful record of eligible investment activity or qualifying business activity.

162.212

(1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.

(2) Throughout at least 1 of the 5 fiscal years immediately before the application is made:

(a) the applicant maintained direct involvement in managing a qualifying business in which:

(i) the applicant; or

(ii) the applicant and his or her spouse or de facto partner together;

had an ownership interest of at least 10% of the total value of the business; or

(b) the applicant maintained direct involvement in managing eligible investments of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together;

the total net value of which was at least AUD1 500 000.

(3) Throughout the 2 fiscal years immediately before the application is made, the net value of the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was at least AUD2 250 000.

162.213

The applicant has demonstrated a high level of management skill in relation to an eligible investment or qualifying business activity.

162.214

The applicant is less than 45 years old.

162.215

The applicant has vocational English within the meaning given by regulation 1.15B.

162.216

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

162.217

The applicant has notified the appropriate regional authority of a State or Territory of:

(a) the applicant’s business and investment history; and

(b) the applicant’s intention to lodge a designated investment in that State or Territory.

162.218

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 162 visa, to continue to maintain business or investment activity in Australia after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, has matured.

162.219

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 162 visa.

162.22—Criteria to be satisfied at time of decision

162.221

The applicant continues to satisfy the criteria in clauses 162.211, 162.213, 162.216 and 162.218.

162.222

(1) The applicant has made a designated investment of an amount of AUD1 500 000 in the name of the applicant or in the names of the applicant and his or her spouse or de facto partner.

(2) The Minister is satisfied that the funds mentioned in subclause (1) were:

(a) legally owned by:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together; and

(b) unencumbered; and

(c) accumulated from the qualifying business or eligible investment activities of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together.

162.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

162.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

162.225

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 162 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 162 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

162.226

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

162.227

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

162.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

162.31—Criteria to be satisfied at time of application

162.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 162.21; or

(b) holds a Subclass 162 visa.

162.32—Criteria to be satisfied at time of decision

162.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 162 visa.

162.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

162.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

162.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

162.4—Circumstances applicable to grant

162.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

162.5—When visa is in effect

162.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

162.6—Conditions

162.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

162.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 163—State/Territory Sponsored Business Owner (Provisional)

163.1—Interpretation

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03 and ***main business*** is defined in regulation 1.11.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

163.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

163.21—Criteria to be satisfied at time of application

163.211

The applicant has overall had a successful business career.

163.212

The applicant has, for at least 2 of the 4 fiscal years immediately before the application is made, had an ownership interest in a main business or businesses that had an annual turnover of at least AUD300 000.

163.213

(1) The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) have a net value of at least AUD500 000 that is available for the conduct or establishment of a business in Australia; and

(b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 163 visa.

(2) The applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the appropriate regional authority is satisfied are of a sufficient net value to settle in Australia.

163.214

The applicant:

(a) is less than 55 years old; or

(b) is proposing to establish or participate in a business that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.

163.215

If the applicant was engaged, for at least 2 of the 4 fiscal years immediately before the application is made, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

163.216

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

163.217

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 163 visa:

(a) either:

(i) to establish a qualifying business in Australia; or

(ii) to participate in an existing qualifying business in Australia; and

(b) to maintain a substantial ownership interest in that business; and

(c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

163.218

The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

163.219

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 163 visa.

163.22—Criteria to be satisfied at time of decision

163.221

The applicant continues to satisfy the criteria in clauses 163.211, 163.213 and 163.216 to 163.218.

163.222

(1) The applicant is sponsored by an appropriate regional authority.

(2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

163.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

163.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

163.225

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 163 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 163 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

163.226

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

163.227

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

163.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

163.31—Criteria to be satisfied at time of application

163.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 163.21; or

(b) holds a Subclass 163 visa.

163.32—Criteria to be satisfied at time of decision

163.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 163 visa.

163.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

163.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

163.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

163.4—Circumstances applicable to grant

163.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

163.5—When visa is in effect

163.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

163.6—Conditions

163.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

163.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 164—State/Territory Sponsored Senior Executive (Provisional)

164.1—Interpretation

164.111

In this Part:

***major business*** means a business (other than a government business enterprise) the annual turnover of which was at least AUD10 000 000 in at least 2 of the 4 fiscal years immediately before the application is made.

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

164.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

164.21—Criteria to be satisfied at time of application

164.211

The applicant has overall had a successful business career.

164.212

For a total of at least 2 years in the 4 years immediately before the application is made, the applicant:

(a) occupied a position in the 3 highest levels of the management structure of a major business; and

(b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

164.213

(1) The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) have a net value of at least AUD500 000 that is available for the conduct or establishment of a business in Australia; and

(b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 164 visa to the applicant.

(2) The applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the appropriate regional authority is satisfied are of a sufficient net value to settle in Australia.

164.214

The applicant:

(a) is less than 55 years old; or

(b) is proposing to establish or participate in a business that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.

164.215

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

164.216

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 164 visa:

(a) either:

(i) to establish a qualifying business in Australia; or

(ii) to participate in a qualifying business in Australia; and

(b) to maintain a substantial ownership interest in that business; and

(c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

164.217

The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

164.218

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 164 visa.

164.22—Criteria to be satisfied at time of decision

164.221

The applicant continues to satisfy the criteria in clauses 164.211, 164.213 and 164.215 to 164.217.

164.222

(1) The applicant is sponsored by an appropriate regional authority.

(2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

164.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

164.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

164.225

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 164 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 164 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

164.226

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

164.227

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

164.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

164.31—Criteria to be satisfied at time of application

164.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 164.21; or

(b) holds a Subclass 164 visa.

164.32—Criteria to be satisfied at time of decision

164.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 164 visa.

164.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

164.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

164.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

164.4—Circumstances applicable to grant

164.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

164.5—When visa is in effect

164.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

164.6—Conditions

164.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

164.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 165—State/Territory Sponsored Investor (Provisional)

165.1—Interpretation

165.111

In this Part:

***designated investment*** means an investment in a security specified by the Minister under regulation 5.19A for this Part.

***eligible investment***, for a person, means:

(a) an ownership interest in a business; or

(b) a loan to a business; or

(c) cash on deposit; or

(d) stocks and bonds; or

(e) real estate; or

(f) gold or silver bullion;

that is owned by the person for the purpose of producing a return by way of income or capital gain and is not held for personal use.

Note 1: ***appropriate regional authority***, ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset, eligible investment or ownership interest, see regulation 1.11A.

165.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

165.21—Criteria to be satisfied at time of application

165.211

The applicant has demonstrated overall a successful record of eligible investment activity or qualifying business activity.

165.212

(1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.

(2) Throughout at least 1 of the 5 fiscal years immediately before the application is made:

(a) the applicant maintained direct involvement in managing a qualifying business in which:

(i) the applicant; or

(ii) the applicant and his or her spouse or de facto partner together;

had an ownership interest of at least 10% of the total value of the business; or

(b) the applicant maintained direct involvement in managing eligible investments of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together;

the total net value of which was at least AUD750 000.

(3) Throughout the 2 fiscal years immediately before the application is made, the net value of the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was at least AUD1 125 000.

165.213

The applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.

165.214

The applicant:

(a) is less than 55 years old; or

(b) is proposing to establish or participate in business or investment activity that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.

165.215

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

165.216

The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 165 visa, to continue to maintain business or investment activity in Australia after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, has matured.

165.217

The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 165 visa.

165.22—Criteria to be satisfied at time of decision

165.221

The applicant continues to satisfy the criteria in clauses 165.211, 165.213, 165.215 and 165.216.

165.222

(1) The applicant has made a designated investment of an amount of AUD750 000, in the name of the applicant or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsored the applicant is located.

(2) The Minister is satisfied that the funds mentioned in subclause (1) were:

(a) legally owned by:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner, or

(iii) the applicant and his or her spouse or de facto partner together; and

(b) unencumbered; and

(c) accumulated from the qualifying business or eligible investment activities of:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together.

165.223

(1) The applicant is sponsored by an appropriate regional authority.

(2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

165.224

The applicant has a genuine intention to reside, for at least 2 years, in the State or Territory where he or she has lodged the designated investment.

165.225

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

165.226

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

165.227

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 165 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and

(aa) if the member had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 165 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

165.228

If a person:

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

165.229

The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

165.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

165.31—Criteria to be satisfied at time of application

165.311

The applicant is a member of the family unit of a person who:

(a) satisfies the primary criteria in Subdivision 165.21; or

(b) holds a Subclass 165 visa.

165.32—Criteria to be satisfied at time of decision

165.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 165 visa.

165.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

165.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

165.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

165.4—Circumstances applicable to grant

165.411

(1) If the applicant:

(a) satisfies the secondary criteria; and

(b) holds a student visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) In any other case, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

165.5—When visa is in effect

165.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

165.6—Conditions

165.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

165.612

If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

Subclass 173—Contributory Parent (Temporary)

173.1—Interpretation

Note: ***Australian permanent resident***,***aged parent***, ***eligible New Zealand citizen***, ***close relative***, ***guardian***, ***parent visa*** and ***settled*** are defined in regulation 1.03, ***balance of family test*** is defined in regulation 1.05, ***parent*** is defined in subsection 5(1) of the Act (also see regulation 1.14A), de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

173.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

173.21—Criteria to be satisfied at time of application

173.211

The applicant is a parent of a person (the child) who is:

(a) a settled Australian citizen; or

(b) a settled Australian permanent resident; or

(c) a settled eligible New Zealand citizen.

173.212

(1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:

(a) the child; or

(b) the child’s cohabiting spouse or de facto partner, if that spouse or de facto partner:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

(a) the child’s cohabiting spouse, if that spouse:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(b) a person who:

(i) is a relative or guardian of the child; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:

(i) is a relative or guardian of the child’s spouse; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(d) a community organisation.

173.213

The applicant satisfies the balance of family test.

173.22—Criteria to be satisfied at time of decision

173.221

The applicant continues to satisfy the criterion in clause 173.211.

173.222

A sponsorship of the kind mentioned in clause 173.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister’s approval for a change of sponsor as long as the new sponsor meets the description in clause 173.212.

173.224

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

173.225

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

173.226

Each member of the family unit of the applicant who is an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

173.227

Each member of the family unit of the applicant who is not an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

173.228

If a person (the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

173.229

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

173.3—Secondary criteria

173.31—Criteria to be satisfied at time of application

173.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 173.21.

173.312

A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant.

173.32—Criteria to be satisfied at time of decision

173.321

Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa.

173.322

A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:

(a) is in force; and

(b) includes sponsorship of the applicant;

whether or not the sponsor was the sponsor at the time of application.

173.322A

A contributory parent newborn child is taken to be sponsored if:

(a) the contributory parent newborn child’s parent is taken to be sponsored in accordance with subclause 143.212(4); or

(b) the following criteria apply in relation to the contributory parent newborn child’s parent:

(i) the parent is the holder of a Subclass 143 (Contributory Parent) visa at the time of the contributory parent newborn child’s application;

(ii) the person who sponsored the parent for the Subclass 143 (Contributory Parent) visa has died; or

(c) the following criteria apply in relation to the contributory parent newborn child’s parent:

(i) at the time of the contributory parent newborn child’s application, the parent is the holder of:

(A) a Subclass 173 (Contributory Parent (Temporary)) visa; or

(B) a bridging visa, and the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa;

(ii) the person who sponsored the parent for the Subclass 173 (Contributory Parent (Temporary)) visa has died.

173.323

If the applicant is not a contributory parent newborn child, the applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

173.324

If the applicant:

(a) is not a contributory parent newborn child; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001, 5002 and 5010.

173.325

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

173.326

If the applicant has previously made a valid application for another parent visa:

(a) the application has been:

(i) finally determined (within the meaning of subsection 5(9) of the *Migration Act 1958*); or

(ii) withdrawn; and

(b) any of the following has occurred in relation to the application for that visa:

(i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

(ii) a decision that has been made in respect of the application was subject to:

(A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

173.327

If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.

173.328

The applicant satisfies public interest criteria 4020 and 4021.

173.4—Circumstances applicable to grant

173.411

If the applicant is not a contributory parent newborn child, the applicant must be outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

173.412

If the applicant is a contributory parent newborn child, the applicant may be in or outside Australia when the visa is granted.

173.5—When visa is in effect

173.511

If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

173.512

If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

173.6—Conditions

173.611

First entry must be made before a date specified by the Minister for the purpose.

173.612

Either or both of conditions 8502 and 8515 may be imposed.

Subclass 186—Employer Nomination Scheme

186.1—Interpretation

186.111

In this Part:

***application for approval*** means an application under regulation 5.19 for approval of the nomination of a position.

***occupation*** means the occupation that would be carried out by a person who is employed in a position.

Note 1: For ***labour agreement***: see regulation 1.03.

Note 2: Regulation 1.03 provides that***competent English***has the meaning set out in regulation 1.15C.

Note 3: Regulation 1.03 provides that***vocational English***has the meaning set out in regulation 1.15B.

186.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 186 visa include criteria set out in streams.

If an applicant applies for a Subclass 186 visa in the Temporary Residence Transition stream, the criteria in Subdivisions 186.21 and 186.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 186 visa in the Direct Entry stream, the criteria in Subdivisions 186.21 and 186.23 are the primary criteria.

If an applicant applies for a Subclass 186 visa in the Agreement stream, the criteria in Subdivisions 186.21 and 186.24 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

186.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 186 visa.

186.211

If it is mandatory, in the State or Territory in which the position to which the application relates is located, that a person:

(a) hold a licence of a particular kind; or

(b) hold registration of a particular kind; or

(c) be a member (or a member of a particular kind) of a particular professional body;

to perform tasks of the kind to be performed in the occupation to which a position relates, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body, at the time of application.

186.212

The position to which the application relates will provide to the applicant the employment referred to in the application for approval.

186.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 186 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 186 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

186.214

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa satisfies special return criteria 5001, 5002 and 5010.

186.22—Criteria for Temporary Residence Transition stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Temporary Residence Transition stream.

186.221

At the time of application, the applicant:

(a) had not turned 50; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.222

At the time of application, the applicant:

(a) had vocational English; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.223

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that seeks to meet the requirements of subregulation 5.19(3); and

(b) in relation to which the applicant is identified as the holder of a Subclass 457 (Temporary Work (Skilled)) visa; and

(c) in relation to which the declaration mentioned in paragraph 1114B(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The Minister has approved the nomination.

(3) The nomination has not subsequently been withdrawn.

(4) The position is still available to the applicant.

(5) The application for the visa is made no more than 6 months after the Minister approved the nomination.

186.224

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

186.23—Criteria for Direct Entry stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Direct Entry stream.

186.231

At the time of application, the applicant:

(a) had not turned 50; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.232

At the time of application, the applicant:

(a) had competent English; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.233

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that seeks to meet the requirements of:

(i) subparagraph 5.19(4)(h)(i); or

(ii) subregulation 5.19(2) as in force before 1 July 2012; and

(b) in relation to which the declaration mentioned in paragraph 1114B(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The person who will employ the applicant is the person who was the nominator in the application for approval.

(3) The Minister has approved the nomination.

(4) The nomination has not subsequently been withdrawn.

(5) The position is still available to the applicant.

(6) The application for the visa is made not more than 6 months after the Minister approved the nomination.

186.234

(1) At the time of application, subclause (2) or (3) applies.

(2) All of the following apply:

(a) an assessing authority specified by the Minister in an instrument in writing for this subclause, as the assessing authority for the occupation, has assessed the applicant’s skills as suitable for the occupation;

(aa) the assessment is not for a Subclass 485 (Temporary Graduate) visa;

(ab) if the assessment specifies a period during which the assessment is valid, and the period does not end more than 3 years after the date of the assessment—the period has not ended;

(ac) if paragraph (ab) does not apply—not more than 3 years have passed since the date of the assessment;

(b) the applicant has been employed in the occupation for at least 3 years on a full‑time basis and at the level of skill required for the occupation.

(3) The applicant is a person in a class of persons specified by the Minister in an instrument in writing for this subclause.

186.235

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

186.24—Criteria for Agreement stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Agreement stream.

186.241

Either:

(a) the applicant had not turned 50 at the time of application; or

(b) the Minister has agreed, in a labour agreement:

(i) that is in effect; and

(ii) to which the employer is a party; and

(iii) under which the position to which the application relates is nominated; and

that persons who have turned 50 may be employed.

186.242

(1) The position to which the application relates is the position:

(a) nominated by an employer in accordance with a labour agreement that is in effect and to which the employer is a party; and

(b) identified in the application for the grant of the visa.

(2) The requirements of the labour agreement have been met in relation to the application.

(3) The Minister has approved the nomination.

(4) The nomination has not subsequently been withdrawn.

(5) The position is still available to the applicant.

(6) The terms and conditions of employment applicable to the position will be no less favourable than the terms and conditions that:

(a) are provided; or

(b) would be provided;

to an Australian citizen or an Australian permanent resident for performing equivalent work in the workplace to which the application relates at the same location.

186.243

The applicant has qualifications, experience and other attributes that are suitable for the position.

186.244

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

186.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

186.31—Criteria

186.311

The applicant:

(a) is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 186 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with the primary applicant.

186.312

Any nomination approved in respect of the primary applicant, and mentioned in paragraph 1114B(3)(d) of Schedule 1, includes the applicant.

186.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 186 visa in the Temporary Residence Transition stream, the applicant satisfies public interest criterion 4007.

(5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

186.314

The applicant satisfies special return criteria 5001, 5002 and 5010.

186.4—Circumstances applicable to grant

186.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

186.5—When visa is in effect

186.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

186.6—Conditions

186.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Subclass 187—Regional Sponsored Migration Scheme

187.1—Interpretation

187.111

In this Part:

***application for approval*** means an application under regulation 5.19 for approval of the nomination of a position.

***occupation*** means the occupation that would be carried out by a person who is employed in a position.

***regional Australia*** has the meaning given by subregulation 5.19(7).

Note 1: For ***ANZSCO*** and ***labour agreement***: see regulation 1.03.

Note 2: Regulation 1.03 provides that***competent English***has the meaning set out in regulation 1.15C.

Note 3: Regulation 1.03 provides that***vocational English***has the meaning set out in regulation 1.15B.

187.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 187 visa include criteria set out in streams.

If an applicant applies for a Subclass 187 visa in the Temporary Residence Transition stream, the criteria in Subdivisions 187.21 and 187.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 187 visa in the Direct Entry stream, the criteria in Subdivisions 187.21 and 187.23 are the primary criteria.

If an applicant applies for a Subclass 187 visa in the Agreement stream, the criteria in Subdivisions 187.21 and 187.24 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

187.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 187 visa.

187.211

If it is mandatory, in the State or Territory in which the position to which the application relates is located, that a person:

(a) hold a licence of a particular kind; or

(b) hold registration of a particular kind; or

(c) be a member (or a member of a particular kind) of a particular professional body;

to perform tasks of the kind to be performed in the occupation to which a position relates, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body, at the time of application.

187.212

The position to which the application relates will provide to the applicant the employment referred to in the application for approval.

187.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 187 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 187 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

187.214

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa satisfies special return criteria 5001, 5002 and 5010.

187.22—Criteria for Temporary Residence Transition stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 187 visa in the Temporary Residence Transition stream.

187.221

At the time of application, the applicant:

(a) had not turned 50; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.222

At the time of application, the applicant:

(a) had vocational English; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.223

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that seeks to meet the requirements of subregulation 5.19(3); and

(b) in relation to which the applicant is identified as the holder of a Subclass 457 (Temporary Work (Skilled)) visa; and

(c) in relation to which the declaration mentioned in paragraph 1114C(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The Minister has approved the nomination.

(3) The nomination has not subsequently been withdrawn.

(4) The position to which the application relates is located in regional Australia.

(5) The position is still available to the applicant.

(6) The application for the visa is made no more than 6 months after the Minister approved the nomination.

187.224

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

187.23—Criteria for Direct Entry stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 187 visa in the Direct Entry stream.

187.231

At the time of application, the applicant:

(a) had not turned 50; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.232

At the time of application, the applicant:

(a) had competent English; or

(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.233

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that seeks to meet the requirements of:

(i) subparagraph 5.19(4)(h) ii); or

(ii) subregulation 5.19(4) as in force before 1 July 2012; and

(b) in relation to which the declaration mentioned in paragraph 1114C(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The person who will employ the applicant is the person who was the nominator in the application for approval.

(3) The Minister has approved the nomination.

(4) The nomination has not subsequently been withdrawn.

(5) The position is still available to the applicant.

(6) The application for the visa is made no more than 6 months after the Minister approved the nomination.

187.234

At the time of application:

(a) the applicant was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph; or

(b) all of the following requirements were met:

(i) the applicant’s occupation is specified by the Minister in an instrument in writing for this subparagraph;

(ii) the applicant did not obtain the necessary qualification in Australia;

(iii) the applicant’s skills had been assessed as suitable for the occupation by an assessing authority specified by the Minister in the instrument for subparagraph (i) as the assessing authority for the occupation;

(iv) the assessment was not for a Subclass 485 (Temporary Graduate) visa;

(v) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended;

(vi) if subparagraph (v) did not apply—not more than 3 years had passed since the date of the assessment; or

(c) if neither paragraph (a) nor (b) applies, the applicant had the qualifications listed in ANZSCO as being necessary to perform the tasks of the occupation.

187.235

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

187.24—Criteria for Agreement stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 187 visa in the Agreement stream.

187.241

Either:

(a) the applicant had not turned 50 at the time of application; or

(b) the Minister has agreed, in a labour agreement:

(i) that is in effect; and

(ii) to which the employer is a party; and

(iii) under which the position to which the application relates is nominated;

that persons who have turned 50 may be employed.

187.242

(1) The position to which the application relates is the position:

(a) nominated by an employer in accordance with a labour agreement that is in effect and to which the employer is a party; and

(b) identified in the application for the grant of the visa.

(2) The requirements of the labour agreement have been met in relation to the application.

(3) The Minister has approved the nomination.

(4) The nomination has not subsequently been withdrawn.

(5) The position is still available to the applicant.

(6) The Minister is satisfied that the terms and conditions of employment applicable to the position will be no less favourable than the terms and conditions that:

(a) are provided; or

(b) would be provided;

to an Australian citizen or an Australian permanent resident for performing equivalent work in the workplace to which the application relates at the same location.

187.243

The applicant has qualifications, experience and other attributes that are suitable for the position.

187.244

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

187.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

187.31—Criteria

187.311

The applicant:

(a) is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 187 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with the primary applicant.

187.312

Any nomination approved in respect of the primary applicant, and mentioned in paragraph 1114C(3)(d) of Schedule 1, includes the applicant.

187.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 187 visa in the Temporary Residence Transition stream, the applicant satisfies public interest criterion 4007.

(5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

187.314

The applicant satisfies special return criteria 5001, 5002 and 5010.

187.4—Circumstances applicable to grant

187.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

187.5—When visa is in effect

187.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

187.6—Conditions

187.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Part 188—Business Innovation and Investment (Provisional)

188.1—Interpretation

188.111

In this Part:

***designated investment*** means an investment in a security that is specified for this Part by the Minister under regulation 5.19A.

188.112

In this Part, each of the following is an eligible investment if a person owns it for the purpose of producing a return in the form of income or capital gain, and not for personal use:

(a) an ownership interest in a business;

(b) cash on deposit;

(c) stocks or bonds;

(d) real estate;

(e) gold or silver bullion.

188.113

In this Part, a loan to a business is an ***eligible investment*** if a person makes it for the purpose of producing a return in the form of income or capital gain.

Note 1: For ***AUD***, ***business innovation and investment points test***, ***fiscal year***, ***ownership interest*** and ***qualifying business***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***member of the family unit*** has the meaning set out in regulation 1.12.

Note 3: ***main business*** is defined in regulation 1.11.

Note 4: For the beneficial ownership of an asset, eligible investment or ownership interest: see regulation 1.11A.

Note 5: ***complying investment*** is defined in regulation 5.19B.

188.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 188 visa include criteria set out in streams.

If an applicant applies for a Subclass 188 visa in the Business Innovation stream, the criteria in Subdivisions 188.21 and 188.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 188 visa in the Business Innovation Extension stream, the criteria in Subdivisions 188.21 and 188.23 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Investor stream, the criteria in Subdivisions 188.21 and 188.24 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Significant Investor stream, the criteria in Subdivisions 188.21 and 188.25 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Significant Investor Extension stream, the criteria in Subdivisions 188.21 and 188.26 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

188.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 188 visa.

188.211

The applicant, and the applicant’s spouse or de facto partner, do not have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

188.212

The nominating State or Territory government agency has not withdrawn the nomination.

188.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 188 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 188 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

188.214

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies special return criteria 5001, 5002 and 5010.

188.22—Criteria for Business Innovation stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Business Innovation stream.

188.221

(1) The applicant was invited, in writing, by the Minister to apply for the visa.

(2) The applicant:

(a) had not turned 55 at the time of the invitation to apply for the visa; or

(b) is proposing to establish or participate in business or investment activity that the nominating State or Territory government agency has determined is of exceptional economic benefit to the State or Territory in which the agency is located.

188.222

(1) The applicant’s score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for this subclause.

(2) For subclause (1):

(a) an applicant’s score on the business innovation and investment points test is the sum of the applicant’s scores under Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8, 7A.9 and 7A.10 of Schedule 7A; and

(b) the Minister must not give the applicant the prescribed number of points for more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8 and 7A.10 of Schedule 7A; and

(c) if the applicant’s circumstances satisfy more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8 and 7A.10 of Schedule 7A, the Minister must give the applicant points for the qualification that has been satisfied that attracts the highest number of points.

188.223

The applicant demonstrates that there is a need for the applicant to be resident in Australia to establish or conduct the proposed business activity.

188.224

The applicant has overall had a successful business career.

188.225

(1) For at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa, the applicant had an ownership interest in one or more established main businesses that had an annual turnover of at least AUD500 000 in each of those years.

(2) If the applicant was engaged in one or more businesses providing professional, technical or trade services for at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

188.226

At the time of invitation, the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, that can be applied to the establishment or conduct of a business in Australia have a net value of at least AUD800 000.

188.227

The nominating State or Territory government agency is satisfied that the net value of the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, other than the business and personal assets mentioned in clause 188.226, is sufficient to allow the applicant and the spouse or de facto partner to settle in Australia.

188.228

The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) are lawfully acquired; and

(b) are available for transfer to Australia within 2 years after the grant of a Subclass 188 visa.

188.229

(1) The applicant genuinely has a realistic commitment to:

(a) establish a qualifying business in Australia; or

(b) participate in an existing qualifying business in Australia.

(2) The applicant genuinely has a realistic commitment to:

(a) maintain a substantial ownership interest in the qualifying business mentioned in subclause (1); and

(b) maintain a direct and continuous involvement in the management of the qualifying business from day to day, and in the making of decisions that affect the overall direction and performance of the qualifying business, in a manner that benefits the Australian economy.

188.229A

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.23—Criteria for Business Innovation Extension stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Business Innovation Extension stream.

188.231

The applicant demonstrates that there is a need for the applicant to be resident in Australia to operate the main business.

188.232

(1) For at least the 2 years immediately before the application was made, the applicant had an ownership interest in one or more main businesses that were actively operating in Australia.

(2) The applicant continues to have the ownership interest mentioned in subclause (1).

188.233

The applicant genuinely has a realistic commitment to:

(a) maintain the ownership interest mentioned in subclause 188.232(1); and

(b) maintain a direct and continuous involvement in the management of the main business from day to day, and in the making of decisions that affect the overall direction and performance of the main business, in a manner that benefits the Australian economy.

188.234

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.24—Criteria for Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Investor stream.

188.241

(1) The applicant was invited, in writing, by the Minister to apply for the visa.

(2) The applicant:

(a) had not turned 55 at the time of the invitation to apply for the visa; or

(b) is proposing to establish or participate in business or investment activity that the nominating State or Territory government agency has determined is of exceptional economic benefit to the State or Territory in which the agency is located.

188.242

(1) The applicant’s score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for this subclause.

(2) For subclause (1):

(a) an applicant’s score on the business innovation and investment points test is the sum of the applicant’s scores under Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8, 7A.9 and 7A.10 of Schedule 7A; and

(b) the Minister must not give the applicant the prescribed number of points for more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8 and 7A.10 of Schedule 7A; and

(c) if the applicant’s circumstances satisfy more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8 and 7A.10 of Schedule 7A, the Minister must give the applicant points for the qualification that has been satisfied that attracts the highest number of points.

188.243

(1) The applicant has overall had a successful record of eligible investment activity or qualifying business activity.

(2) The applicant has had a total of at least 3 years experience of direct involvement in managing one or more qualifying businesses or eligible investments.

(3) The applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.

188.244

For at least one of the 5 fiscal years immediately before the time of invitation to apply for the visa:

(a) both of the following apply:

(i) the applicant maintained direct involvement in managing a qualifying business;

(ii) the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had an ownership interest of at least 10% of the total value of the business; or

(b) both of the following apply:

(i) the applicant maintained direct involvement in managing eligible investments of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together;

(ii) the total net value of the eligible investments was at least AUD1 500 000.

188.245

For the 2 fiscal years immediately before the time of invitation to apply for the visa, the business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had a net value of at least AUD2 250 000.

188.246

(1) The applicant has made a designated investment of at least AUD1 500 000 in the State or Territory in which the nominating State or Territory government agency is located, and has made the investment:

(a) in the name of the applicant; or

(b) in the names of the applicant and his or her spouse or de facto partner.

(2) The funds used to make the designated investment mentioned in subclause (1) were:

(a) unencumbered; and

(b) accumulated from either or both of:

(i) one or more qualifying businesses conducted by the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together; and

(ii) eligible investment activities of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

188.247

The business and personal assets of the applicant, the applicant’s spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) are lawfully acquired; and

(b) are available for transfer to Australia within 2 years after the grant of a Subclass 188 visa.

188.248

(1) The applicant genuinely has a realistic commitment to continue to maintain business or investment activity in Australia after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, matures.

(2) The applicant has a genuine intention to reside for at least 2 years in the State or Territory in which he or she made the designated investment application.

188.249

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.25—Criteria for Significant Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor stream.

188.251

The applicant was invited, in writing, by the Minister to apply for the visa.

188.252

(1) The applicant has made a complying investment of at least AUD5,000,000.

Note: A complying investment may be based on one or more investments.

(2) The applicant has a genuine intention to hold the complying investment for at least 4 years.

188.253

(1) The applicant has given the Minister a completed copy of approved form 1413 for each investment in a managed fund on which the complying investment is based.

Note: Approved form 1413 includes a declaration that the investments made by a managed fund for the benefit of clients are limited to one or more of the purposes specified by the Minister for paragraph 5.19B(2)(c).

(2) The applicant has given the Minister a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by each person mentioned in subclause (2), under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the complying investment.

188.254

The applicant has a genuine intention to reside in the State or Territory whose government agency nominated the applicant.

188.255

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.26—Criteria for Significant Investor Extension stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor Extension stream.

188.261

(1) The applicant continues to hold the complying investment on the basis of which the Subclass 188 visa held by the applicant in the Significant Investor stream or the Significant Investor Extension stream was granted.

(2) For any part of the complying investment that is, or was, a direct investment in an Australian proprietary company:

(a) if the period of the direct investment was less than 2 years, the company was a qualifying business for the whole period; or

(b) if the period of the direct investment was 2 years or more, the company was a qualifying business for at least 2 years; or

(c) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.

(3) The applicant has given the Minister a completed copy of approved form 1413 for each investment in a managed fund on which the complying investment is based.

Note: Approved form 1413 includes a declaration that the investments made by a managed fund for the benefit of clients are limited to one or more of the purposes specified by the Minister for paragraph 5.19B(2)(c).

(4) The applicant has given the Minister a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by each person mentioned in subclause (4), under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the complying investment.

188.262

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

188.31—Criteria

188.311

The applicant is a member of the family unit of a person who holds a Subclass 188 visa granted on the basis of satisfying the primary criteria for the grant of the visa (the primary applicant).

188.311A

If:

(a) the applicant has turned 18; and

(b) the primary applicant holds a Subclass 188 visa in the Significant Investor stream or the Significant Investor Extension stream;

the applicant has given the Minister a completed copy of approved form 1412.

Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by the primary applicant, and each other applicant aged at least 18 years, under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the complying investment.

188.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 188 visa in the Business Innovation stream, the Investor stream or the Significant Investor stream, the applicant satisfies public interest criterion 4005.

(5) If the primary applicant holds a Subclass 188 visa in the Business Innovation Extension stream or the Significant Investor Extension stream, the applicant satisfies public interest criterion 4007.

188.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

188.4—Circumstances applicable to grant

188.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

188.5—When visa is in effect

188.511

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Business Innovation stream, the Investor stream or the Significant Investor stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 4 years from the date of grant.

188.512

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Business Innovation Extension stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 6 years after the date of the grant of the provisional visa the applicant held at the time of application.

188.512A

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Significant Investor Extension stream, temporary visa permitting the holder to travel to, enter and remain in Australia

(a) if the applicant held a Subclass 188 visa in the Significant Investor stream at the time of application—6 years after the date of the grant of the Subclass 188 visa in the Significant Investor stream; or

(b) if the applicant held a Subclass 188 visa in the Significant Investor Extension stream at the time of application—8 years after the date of the grant of the Subclass 188 visa in the Significant Investor stream.

188.513

If the applicant satisfied the secondary criteria for the grant of a Subclass 188 visa, temporary visa permitting the holder to travel to, enter and remain in Australia until the day specified for the applicant who satisfied the primary criteria.

188.6—Conditions

188.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

188.612

If the applicant is granted a Subclass 188 visa in the Significant Investor stream or the Significant Investor Extension stream, condition 8557 must be imposed.

Subclass 189—Skilled—Independent

189.1—Interpretation

Note 1: For ***registered course***, ***relevant assessing authority*** and ***skilled occupation***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***competent English***has the meaning set out in regulation 1.15C.

Note 3: There are no interpretation provisions specific to this Part.

189.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 189 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

189.21—Criteria

189.211

The applicant was invited, in writing, by the Minister to apply for the visa.

189.212

(1) At the time of invitation to apply for the visa:

(a) the relevant assessing authority had assessed the applicant’s skills as suitable for the applicant’s nominated skilled occupation; and

(b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and

(c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and

(d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

189.213

At the time of invitation to apply for the visa, the applicant had competent English.

189.214

(1) The applicant’s score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant’s score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6D of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

189.215

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 189 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 189 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 189 visa:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

189.216

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa satisfies special return criteria 5001, 5002 and 5010.

189.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

189.31—Criteria

189.311

The applicant:

(a) is a member of the family unit of a person who holds a Subclass 189 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with that person.

189.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

189.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

189.4—Circumstances applicable to grant

189.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

189.5—When visa is in effect

189.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

189.6—Conditions

189.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Subclass 190—Skilled—Nominated

190.1—Interpretation

Note 1: For ***registered course***, ***relevant assessing authority*** and ***skilled occupation***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***competent English***has the meaning set out in regulation 1.15C.

Note 3: There are no interpretation provisions specific to this Part.

190.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 190 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

190.21—Criteria

190.211

The applicant was invited, in writing, by the Minister to apply for the visa.

190.212

(1) At the time of invitation to apply for the visa:

(a) the relevant assessing authority had assessed the applicant’s skills as suitable for the applicant’s nominated skilled occupation; and

(b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and

(c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and

(d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

190.213

At the time of invitation to apply for the visa, the applicant had competent English.

190.214

(1) The applicant’s score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant’s score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6D of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

190.215

The nominating State or Territory government agency has not withdrawn the nomination.

190.216

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 190 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 190 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 190 visa; and

(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 190 visa:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

190.217

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 190 visa satisfies special return criteria 5001, 5002 and 5010.

190.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

190.31—Criteria

190.311

The applicant:

(a) is a member of the family unit of a person who holds a Subclass 190 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with that person.

190.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

190.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

190.4—Circumstances applicable to grant

190.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

190.5—When visa is in effect

190.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

190.6—Conditions

190.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Subclass 200—Refugee

200.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

200.111

In this Part:

***approved proposing organisation*** means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:

(i) the proposal of applicants for a Refugee and Humanitarian (Class XB) visa; and

(ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:

(i) is in effect; and

(ii) is not suspended under the terms of the deed.

Note: When this definition commenced on 1 June 2013, these requirements were part of the Department’s Community Proposal Pilot program.

***relevant Minister*** means any of the following:

(a) the Attorney‑General;

(b) the Minister for Defence;

(c) the Minister for Foreign Affairs;

(d) the Minister for Home Affairs;

(e) the Minister for Immigration and Citizenship.

200.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

200.21—Criteria to be satisfied at time of application

200.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:

(a) is subject to persecution in the applicant’s home country and is living in a country other than the applicant’s home country; or

(aa) meets the requirements of subclause (1A); or

(b) meets the requirements of subclause (2).

(1A) The applicant meets the requirements of this subclause if:

(a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and

(b) a relevant Minister has certified that the applicant is:

(i) in one of those classes; and

(ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.

(1B) Before making the instrument mentioned in paragraph (1A)(a), the Minister must consult:

(a) the Prime Minister; and

(b) the Minister for Finance and Deregulation; and

(c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.

(2) The applicant meets the requirements of this subclause if:

(a) the applicant’s entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 200 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

200.212

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is subject to persecution in the applicant’s home country and is living in a country other than the applicant’s home country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

200.22—Criteria to be satisfied at time of decision

200.221

(1) If the criteria in clause 200.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 200.212 apply to the applicant, the applicant continues to satisfy the criteria.

200.222

(1) If the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) in the case of an applicant who met the requirements of subclause 200.211(2) at the time of application—the extent of the applicant’s connection with Australia; or

(b) in any other case—the following:

(i) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(ii) the extent of the applicant’s connection with Australia; and

(iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

(2) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

200.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

200.224

The Minister is satisfied that permanent settlement in Australia:

(a) is the appropriate course for the applicant; and

(b) would not be contrary to the interests of Australia.

200.225

Grant of the visa would not result in either:

(a) the number of Subclass 200 visas granted in a financial year exceeding the maximum number of Subclass 200 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes (including Subclass 200) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

200.226

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

200.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

200.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

200.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 200 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 200 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

200.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

200.31—Criteria to be satisfied at time of application

200.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of:

(i) paragraphs 200.211(1)(a) or (aa); or

(ii) paragraph 200.212(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 200.211(1)(b).

200.32—Criteria to be satisfied at time of decision

200.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of:

(i) paragraph 200.211(1)(a); or

(ii) paragraph 200.211(1)(aa); or

(iii) paragraph 200.212(a);

is the holder of a Subclass 200 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 200.211(1)(b)), is the holder of a Subclass 200 visa.

200.322

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

200.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia, satisfies special return criterion 5001.

200.4—Circumstances applicable to grant

200.411

The applicant must be outside Australia when the visa is granted.

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

200.5—When visa is in effect

200.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

200.6—Conditions

200.611

Entry must be made before the date specified by the Minister for the purpose.

200.612

Condition 8502 may be imposed.

Subclass 201—In‑country Special Humanitarian

201.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

201.111

In this Part:

***approved proposing organisation*** means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:

(i) the proposal of applicants for a Refugee and Humanitarian (Class XB) visa; and

(ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:

(i) is in effect; and

(ii) is not suspended under the terms of the deed.

Note: When this definition commenced on 1 June 2013, these requirements were part of the Department’s Community Proposal Pilot program.

***relevant Minister*** means any of the following:

(a) the Attorney‑General;

(b) the Minister for Defence;

(c) the Minister for Foreign Affairs;

(d) the Minister for Home Affairs;

(e) the Minister for Immigration and Citizenship.

201.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

201.21—Criteria to be satisfied at time of application

201.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:

(a) is subject to persecution in the applicant’s home country and is living in the applicant’s home country; or

(aa) meets the requirements of subclause (1A); or

(b) meets the requirements of subclause (2).

(1A) The applicant meets the requirements of this subclause if:

(a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and

(b) a relevant Minister has certified that the applicant is:

(i) in one of those classes; and

(ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.

(1B) Before making the instrument mentioned in paragraph (1A) (a), the Minister must consult:

(a) the Prime Minister; and

(b) the Minister for Finance and Deregulation; and

(c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.

(2) The applicant meets the requirements of this subclause if:

(a) the applicant’s entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 201 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration.

201.212

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is subject to persecution in the applicant’s home country and is living in the applicant’s home country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

201.22—Criteria to be satisfied at time of decision

201.221

(1) If the criteria in clause 201.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 201.212 apply to the applicant, the applicant continues to satisfy the criteria.

201.222

(1) If the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

(2) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

201.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

201.224

The Minister is satisfied that permanent settlement in Australia:

(a) is the appropriate course for the applicant; and

(b) would not be contrary to the interests of Australia.

201.225

Grant of the visa would not result in either:

(a) the number of Subclass 201 visas granted in a financial year exceeding the maximum number of Subclass 201 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 201 visas, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

201.226

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

201.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

201.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

201.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 201 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 201 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

201.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

201.31—Criteria to be satisfied at time of application

201.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of:

(i) paragraphs 201.211(1)(a) or (aa); or

(ii) paragraph 201.212(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 201.211(1)(b).

201.32—Criteria to be satisfied at time of decision

201.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of:

(i) paragraph 201.211(1)(a); or

(ii) paragraph 201.211(1)(aa); or

(iii) paragraph 201.212(a);

is the holder of a Subclass 201 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 201.211(1)(b)), is the holder of a Subclass 201 visa.

201.322

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

201.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

201.4—Circumstances applicable to grant

201.411

The applicant must be outside Australia when the visa is granted.

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

201.5—When visa is in effect

201.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

201.6—Conditions

201.611

Entry must be made before the date specified by the Minister for the purpose.

201.612

Condition 8502 may be imposed.

Subclass 202—Global Special Humanitarian

202.1—Interpretation

Note: ***eligible New Zealand citizen***, ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

202.111

In this Part:

***approved proposing organisation*** means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:

(i) the proposal of applicants for a Refugee and Humanitarian (Class XB) visa; and

(ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:

(i) is in effect; and

(ii) is not suspended under the terms of the deed.

Note: When this definition commenced on 1 June 2013, these requirements were part of the Department’s Community Proposal Pilot program.

202.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

202.21—Criteria to be satisfied at time of application

202.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:

(a) is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant’s home country and is living in a country other than the applicant’s home country; or

(b) meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:

(a) the applicant’s entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***); and

(b) either:

(i) the proposer is, or has been, the holder of a Subclass 202 visa, and the applicant was a member of the immediate family of the proposer on the date of grant of that visa; or

(ii) the proposer is, or has been, the holder of a Subclass 866 (Protection) visa, and the applicant was a member of the immediate family of the proposer on the date of application for that visa; or

(iia) the proposer is, or has been, the holder of a Resolution of Status (Class CD) visa, and the applicant was a member of the immediate family of the proposer on the date of application for that visa; and

(ba) the application is made within 5 years of the grant of that visa; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

202.212

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant’s home country and is living in a country other than the applicant’s home country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

202.22—Criteria to be satisfied at time of decision

202.221

(1) If the criteria in clause 202.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 202.212 apply to the applicant, the applicant continues to satisfy the criteria.

202.222

(1) If:

(a) the applicant met the requirements of subclause 202.211(2) at the time of application; and

(b) the applicant’s proposer is, or has been, the holder of a Subclass 202 visa;

the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa having regard to the extent of the applicant’s connection with Australia.

(2) If subclause (1) does not apply, and the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of discrimination to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from discrimination; and

(d) the capacity of the Australian community to provide for the permanent settlement of the applicant in Australia.

(3) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of discrimination to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from discrimination; and

(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

202.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

202.224

The Minister is satisfied that permanent settlement in Australia:

(a) is the appropriate course for the applicant; and

(b) would not be contrary to the interests of Australia.

202.225

The applicant is proposed for entry to Australia, in accordance with approved form 681, by:

(a) a person who:

(i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and

(ii) is not a person mentioned in subregulation 2.07AM(5); or

(b) a body operating in Australia.

202.226

Grant of the visa would not result in either:

(a) the number of Subclass 202 visas granted in a financial year exceeding the maximum number of Subclass 202 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 202, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

202.227

(1) The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

202.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

202.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 202 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 202 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

202.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

202.31—Criteria to be satisfied at time of application

202.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211(1)(a) or 202.212(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211(1)(b).

202.312

The proposal made under clause 202.225 in respect of the relevant person who satisfies the primary criteria includes the applicant.

202.32—Criteria to be satisfied at time of decision

202.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 202.211(1)(a) or 202.212(a), is the holder of a Subclass 202 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 202.211(1)(b)), is the holder of a Subclass 202 visa.

202.322

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

202.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

202.4—Circumstances applicable to grant

202.411

The applicant must be outside Australia when the visa is granted.

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

202.5—When visa is in effect

202.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

202.6—Conditions

202.611

Entry must be made before the date specified by the Minister for the purpose.

202.612

Condition 8502 may be imposed.

Subclass 203—Emergency Rescue

203.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

203.111

In this Part:

***approved proposing organisation*** means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:

(i) the proposal of applicants for a Refugee and Humanitarian (Class XB) visa; and

(ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:

(i) is in effect; and

(ii) is not suspended under the terms of the deed.

Note: When this definition commenced on 1 June 2013, these requirements were part of the Department’s Community Proposal Pilot program.

203.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

203.21—Criteria to be satisfied at time of application

203.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:

(a) is subject to persecution in the applicant’s home country, whether the applicant is living in the applicant’s home country or in another country; or

(b) meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:

(a) the applicant’s entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 203 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

203.212

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is subject to persecution in the applicant’s home country, whether the applicant is living in the applicant’s home country or in another country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

203.22—Criteria to be satisfied at time of decision

203.221

(1) If the criteria in clause 203.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 203.212 apply to the applicant, the applicant continues to satisfy the criteria.

203.222

(1) If the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) in the case of an applicant who met the requirements of subclause 203.211(2) at the time of application—the extent of the applicant’s connection with Australia; or

(b) in any other case—the following:

(i) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(ii) the extent of the applicant’s connection with Australia; and

(iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

(2) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

203.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

203.224

The Minister is satisfied that:

(a) there are urgent and compelling reasons for the applicant to travel to Australia; and

(b) permanent settlement in Australia:

(i) is the appropriate course for the applicant; and

(ii) would not be contrary to the interests of Australia.

203.225

Grant of the visa would not result in either:

(a) the number of Subclass 203 visas granted in a financial year exceeding the maximum number of Subclass 203 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 203, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

203.226

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

203.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

203.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

203.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 203 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 203 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

203.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

203.31—Criteria to be satisfied at time of application

203.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211(1)(a) or 203.212(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211(1)(b).

203.32—Criteria to be satisfied at time of decision

203.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 203.211(1)(a) or 203.212(a), is the holder of a Subclass 203 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 203.211(1)(b)), is the holder of a Subclass 203 visa.

203.322

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

203.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

203.4—Circumstances applicable to grant

203.411

The applicant must be outside Australia when the visa is granted.

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

203.5—When visa is in effect

203.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

203.6—Conditions

203.611

Entry must be made before the date specified by the Minister for the purpose.

203.612

Condition 8502 may be imposed.

Subclass 204—Woman at Risk

204.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

204.111

In this Part:

***approved proposing organisation*** means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:

(i) the proposal of applicants for a Refugee and Humanitarian (Class XB) visa; and

(ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:

(i) is in effect; and

(ii) is not suspended under the terms of the deed.

Note: When this definition commenced on 1 June 2013, these requirements were part of the Department’s Community Proposal Pilot program.

204.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

204.21—Criteria to be satisfied at time of application

204.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:

(a) is a female person who is:

(i) subject to persecution or registered as being of concern to the United Nations High Commissioner for Refugees; and

(ii) living in a country other than her home country; or

(b) is a person who meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:

(a) the applicant’s entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 204 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

204.211A

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is a female person who is subject to persecution, or registered as being of concern to the United Nations High Commissioner for Refugees, and is living in a country other than the applicant’s home country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

204.212

(1) The spouse or de facto partner of the applicant is not prohibited by subclause (2) from proposing the applicant’s entry to Australia.

(2) For subclause (1), the spouse or de facto partner is prohibited from proposing the applicant’s entry to Australia if:

(a) the spouse or de facto partner is a woman who was granted a Subclass 204 visa within the 5 years immediately preceding the application; and

(b) on the date of grant of that visa:

(i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or

(ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

204.22—Criteria to be satisfied at time of decision

204.221

(1) If the criteria in clause 204.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 204.211A apply to the applicant, the applicant continues to satisfy the criteria.

204.222

If the applicant meets the requirements of paragraph 204.211(1)(a), the Minister is satisfied that the applicant does not have the protection of a male relative and is in danger of victimisation, harassment or serious abuse because of her sex.

204.222A

The Minister is satisfied that permanent settlement in Australia:

(a) is the appropriate course for the applicant; and

(b) would not be contrary to the interests of Australia.

204.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

204.224

(1) If the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) in the case of an applicant who met the requirements of subclause 204.211(2) at the time of application—the extent of the applicant’s connection with Australia; or

(b) in any other case—the following:

(i) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(ii) the extent of the applicant’s connection with Australia; and

(iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

(2) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant’s home country; and

(b) the extent of the applicant’s connection with Australia; and

(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant’s settlement and protection from persecution; and

(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

204.225

Grant of the visa would not result in either:

(a) the number of Subclass 204 visas granted in a financial year exceeding the maximum number of Subclass 204 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 204 granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

204.226

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

204.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

204.228

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

204.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 204 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 204 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

204.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

204.31—Criteria to be satisfied at time of application

204.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211(1)(a) or 204.211A(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211(1)(b).

204.32—Criteria to be satisfied at time of decision

204.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 204.211(1)(a) or 204.211A(a), is the holder of a Subclass 204 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 204.211(1)(b)), is the holder of a Subclass 204 visa.

204.322

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

204.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

204.4—Circumstances applicable to grant

204.411

The applicant must be outside Australia when the visa is granted.

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

204.5—When visa is in effect

204.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

204.6—Conditions

204.611

Entry must be made before a date specified by the Minister for the purpose.

204.612

Condition 8502 may be imposed.

Subclass 300—Prospective Marriage

300.1—Interpretation

300.111

In this Part:

***prospective spouse*** means the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in clause 300.211.

***the parties*** means the applicant and the prospective spouse.

Note: For ***eligible New Zealand citizen***, see regulation 1.03.

300.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

300.21—Criteria to be satisfied at time of application

300.211

The applicant intends to marry a person who is:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen.

300.212A

The applicant has turned 18.

300.212

(1) The prospective spouse of the applicant is not prohibited by subclause (2) from being a sponsor.

(2) The prospective spouse is prohibited from being a sponsor if:

(a) the prospective spouse is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and

(b) on the date of grant of that visa:

(i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or

(ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

300.213

(1) The applicant is sponsored by the prospective spouse.

(2) The prospective spouse has turned 18.

300.214

(1) The applicant and the prospective spouse have met in person since each of them turned 18.

(2) The applicant and the prospective spouse are known to each other personally.

300.215

The applicant establishes:

(a) that the parties genuinely intend to marry; and

(b) that the marriage is intended by the parties to take place within the visa period.

300.216

The Minister is satisfied that the parties genuinely intend to live together as spouses.

300.22—Criteria to be satisfied at time of decision

300.221

The applicant continues to satisfy the criteria in clause 300.211 and clauses 300.214 to 300.216.

300.221A

There is no impediment to the marriage in Australian law.

300.222

The sponsorship of the applicant under clause 300.213 has been approved by the Minister and is still in force.

Note: Regulations 1.20J, 1.20KA and 1.20KB limit the Minister’s discretion to approve sponsorships.

300.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4019, 4020 and 4021.

300.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

300.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 300 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 300 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

300.227

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

300.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

300.31—Criteria to be satisfied at time of application

300.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in clauses 300.211 to 300.212 and 300.214 to 300.216.

300.312

The sponsorship referred to in clause 300.213 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

300.32—Criteria to be satisfied at time of decision

300.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 300 visa.

300.322

The sponsorship referred to in clause 300.312 has been approved by the Minister and is still in force.

300.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

300.324

If the applicant has previously been in Australia, the applicant satisfies the special return criteria 5001 and 5002.

300.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

300.4—Circumstances applicable to grant

300.411

(1) Subclause (2) applies to an applicant who:

(a) holds a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; and

(b) has applied for a Prospective Marriage (Temporary) (Class TO) visa.

(2) The applicant must be:

(a) in Australia, but not in immigration clearance; or

(b) outside Australia;

when the visa is granted.

300.412

In any other case, the applicant must be outside Australia when the visa is granted.

300.5—When visa is in effect

300.511

Temporary visa permitting the holder to travel to, enter and remain in Australia for 9 months from date of grant.

300.6—Conditions

300.611

First entry must be made before a date specified by the Minister for the purpose.

300.612

If the applicant satisfies the primary criteria, conditions 8515 and 8519.

300.613

If the applicant satisfies the primary criteria, condition 8502 may be imposed.

300.614

If the applicant satisfies the secondary criteria, condition 8520.

300.615

If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

Subclass 309—Partner (Provisional)

309.1—Interpretation

309.111

In this Part:

***intended spouse*** means the person referred to in subparagraph 309.211(3)(a)(i), (ii) or (iii).

Note: ***eligible New Zealand citizen*** and ***guardian*** are defined in regulation 1.03, ***parent*** is defined in subsection 5(1) of the Act (also see regulation 1.14A), de facto ***partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

309.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

309.21—Criteria to be satisfied at time of application

309.211

(1) The applicant meets the requirements of subclause (2) or (3).

(2) The applicant meets the requirements of this subclause if the applicant is the spouse or de facto partner of:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen.

(3) The applicant meets the requirements of this subclause if:

(a) the applicant intends to marry:

(i) an Australian citizen; or

(ii) an Australian permanent resident; or

(iii) an eligible New Zealand citizen; and

(b) the intended marriage will, if it takes place, be a valid marriage for the purposes of section 12 of the Act.

Note: If the applicant is an applicant referred to in subclause 309.211(3), the marriage must have taken place before the applicant can be granted a visa of this subclass: see clause 309.224.

309.212

(1) The spouse, de facto partner or intended spouse of the applicant is not prohibited by subclause (2) from being a sponsor.

(2) The spouse, de facto partner or intended spouse is prohibited from being a sponsor if:

(a) the applicant is a male person; and

(b) the spouse, de facto partner or intended spouse is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and

(c) on the date of grant of that visa:

(i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or

(ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

309.213

(1) If the applicant is an applicant referred to in subclause 309.211(2), the applicant is sponsored:

(a) if the applicant’s spouse or de facto partner has turned 18—by that spouse or de facto partner; or

(b) if the applicant’s spouse has not turned 18—by a parent or guardian of that spouse who:

(i) has turned 18; and

(ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

(2) If the applicant is an applicant referred to in subclause 309.211(3), the applicant is sponsored:

(a) if the applicant’s intended spouse has turned 18—by that intended spouse; or

(b) if the applicant’s intended spouse has not turned 18—by a parent or guardian of that intended spouse who:

(i) has turned 18; and

(ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

309.22—Criteria to be satisfied at time of decision

309.221

The applicant continues to satisfy the criterion in clause 309.211.

309.222

The sponsorship referred to in clause 309.213 has been approved by the Minister and is still in force.

Note: Regulations 1.20J, 1.20KA and 1.20KB limit the Minister’s discretion to approve sponsorships.

309.223

In the case of an applicant who meets the requirements of subclause 309.211(2), the applicant continues to be the spouse or de facto partner of the person referred to in paragraph 309.211(2)(a), (b) or (c) who was the applicant’s spouse or de facto partner at the time of the application.

309.224

If the applicant is an applicant referred to in subclause 309.211(3), the marriage referred to in that subclause has taken place and the applicant continues to be the spouse of the intended spouse.

309.225

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

309.226

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

309.228

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 309 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 309 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

309.229

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

309.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

309.31—Criteria to be satisfied at time of application

309.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 309.21.

309.312

The sponsorship referred to in clause 309.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

309.32—Criteria to be satisfied at time of decision

309.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 309 (Partner (Provisional)) visa (the ***person who satisfies the primary criteria***); or

(b) is a person to whom each of the following applies:

(i) the person made a combined application with the person who satisfies the primary criteria;

(ii) subsequent to the combined application being made, the person was found by the Minister not to be a member of the family unit of the person who satisfies the primary criteria;

(iii) subsequent to the person who satisfies the primary criteria being granted a Subclass 309 (Partner (Provisional)) visa and Subclass 100 (Partner) visa—the Migration Review Tribunal found the person to be a member of the family unit of the person who satisfies the primary criteria.

309.322

The sponsorship referred to in clause 309.312 has been approved by the Minister and is still in force.

Note: For limitations on the Minister’s discretion to approve sponsorships see regulation 1.20J.

309.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

309.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

309.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

309.4—Circumstances applicable to grant

309.411

(1) Subclause (2) applies to an applicant who:

(a) holds a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; and

(b) has applied for:

(i) a Partner (Provisional) (Class UF) visa; or

(ii) a Prospective Marriage (Temporary) (Class TO) visa.

(2) The applicant must be:

(a) in Australia, but not in immigration clearance; or

(b) outside Australia;

when the visa is granted.

309.412

In any other case, the applicant must be outside Australia at the time of grant.

309.5—When visa is in effect

309.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until the end of the day on which:

(a) the holder is notified that the holder’s application for a Partner (Migrant) (Class BC) visa has been decided; or

(b) that application is withdrawn.

309.6—Conditions

309.611

First entry must be made before a date specified by the Minister for the purpose.

309.612

If the applicant meets the primary criteria, condition 8502 may be imposed.

309.613

If the applicant meets the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

Subclass 400—Temporary Work (Short Stay Activity)

400.1—Interpretation

400.111

In this Part:

***event*** means an event to which an application for the grant of a Subclass 400 visa relates.

***non‑ongoing***, in relation to a person’s proposed participation in an event, or a person’s proposed engagement in an activity or work, means participation or engagement in the following circumstances:

(a) the event, activity or work is likely to be completed within a continuous period of 6 months or less;

(b) the person:

(i) has not been given an expectation of staying in Australia, for a purpose relating to the event, activity or work, after the end of that period; and

(ii) has not made arrangements to stay in Australia, for a purpose relating to the event, activity or work, after the end of that period.

400.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 400 visa include criteria set out in streams.

An applicant must satisfy the criteria in Subdivision 400.21 and also in one of Subdivisions 400.22 to 400.24.

An application for a Subclass 400 visa will be assessed against as many streams as necessary, whether or not the applicant specifies a particular stream in the application. The criteria in Subdivisions 400.22 to 400.24 will be used in turn as primary criteria for the grant of the visa as the application is assessed.

The primary criteria must be satisfied by at least one member of a family unit.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

400.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 400 visa.

400.211

(1) The applicant has personal attributes, an employment background, or both, that are relevant to, and consistent with, the nature of the applicant’s proposed participation in an event, or proposed engagement in an activity or work.

(2) The applicant demonstrates that there is need for the applicant to be in Australia to participate in the event, or engage in the activity or work.

400.212

(1) The applicant does not intend to engage in any course:

(a) leading to the completion of a primary or secondary education program; or

(b) leading to a degree, diploma, trade certificate or other formal award.

(2) The applicant does not intend to engage in any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution in or outside Australia.

400.213

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 400 visa would be subject; and

(c) any other relevant matter.

400.214

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

400.215

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

400.216

The applicant satisfies special return criteria 5001, 5002 and 5010.

400.22—Criteria for Highly Specialised Work stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 400 visa in the Highly Specialised Work stream.

400.221

The applicant will undertake work that is highly specialised.

400.222

The applicant’s engagement in the work will be non‑ongoing.

400.223

The applicant:

(a) will not be performing as an entertainer in Australia:

(i) under a performing contract; or

(ii) for non‑profit purposes; and

(b) will not be supporting an entertainer or a group of entertainers in Australia; and

(c) will not be directing, producing or taking another part in a film, television or radio production that is to be shown or broadcast in Australia; and

(d) will not be directing, producing or taking another part in a theatre production, concert or recording that is to be performed in Australia.

400.224

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

400.23—Criteria for Invited Participant stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 400 visa in the Invited Participant stream.

400.231

(1) The applicant has been invited to participate in an event by an organisation that is lawfully operating in Australia.

(2) The organisation:

(a) is directly responsible for the event; or

(b) has a formal role in preparing for, or conducting, the event.

(3) If requested by the Minister, the applicant has produced a copy of the invitation to participate in the event.

400.232

The applicant’s participation in the event will be non‑ongoing.

400.233

The applicant:

(a) will not be performing as an entertainer in Australia:

(i) under a performing contract; or

(ii) for non‑profit purposes; and

(b) will not be supporting an entertainer or a group of entertainers in Australia; and

(c) will not be directing, producing or taking another part in a film, television or radio production that is to be shown or broadcast in Australia; and

(d) will not be directing, producing or taking another part in a theatre production, concert or recording that is to be performed in Australia.

400.234

The applicant will not receive a salary, wages or other remuneration from participation in the event, other than:

(a) an appearance fee; or

(b) prize money for participating; or

(c) reimbursement for reasonable expenses that would be incurred by the applicant; or

(d) payments made by a person who is overseas and employs the applicant.

400.235

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

400.24—Criteria for Australia’s Interest stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 400 visa in the Australia’s Interest stream.

400.241

(1) There are compelling circumstances that:

(a) affect Australia’s interests; and

(b) require the applicant’s entry to and stay in Australia.

(2) The applicant will participate in an event, or engage in an activity or work, that relates directly to those circumstances.

400.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

400.31—Criteria

400.311

The applicant:

(a) is a member of the family unit of a person who holds a Subclass 400 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with that person.

400.312

(1) The applicant does not intend to engage in any course:

(a) leading to the completion of a primary or secondary education program; or

(b) leading to a degree, diploma, trade certificate or other formal award.

(2) The applicant does not intend to engage in any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution in or outside Australia.

400.313

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

400.314

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

400.315

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

400.316

The applicant satisfies special return criteria 5001, 5002 and 5010.

400.4—Circumstances applicable to grant

400.411

The applicant must be outside Australia when the visa is granted.

400.5—When visa is in effect

400.511

Temporary visa permitting the holder:

(a) to travel to and enter Australia, within 6 months after the date of the grant of the visa; and

(b) to remain in Australia for:

(i) 6 months after first entry; or

(ii) a lesser period specified by the Minister; and

(c) to travel to and enter Australia, during the period mentioned in paragraph (b):

(i) once only; or

(ii) if the Minister specifies—more than once.

400.6—Conditions

400.611

If the applicant satisfied the primary criteria for the grant of a Subclass 400 visa:

(a) conditions 8107 and 8303 must be imposed; and

(b) condition 8503 may be imposed.

400.612

If the applicant satisfied the secondary criteria for the grant of a Subclass 400 visa:

(a) conditions 8101 and 8303 must be imposed; and

(b) condition 8503 may be imposed.

Subclass 401—Temporary Work (Long Stay Activity)

401.1—Interpretation

401.111

In this Part:

***adverse information*** has the meaning given by subregulation 2.57(3).

***associated with*** has the meaning given by subregulation 2.57(2).

***foreign government agency*** has the meaning given by subregulation 2.57(1).

***sporting organisation*** has the meaning given by subregulation 2.57(1).

Note: For ***exchange sponsor***, ***long stay activity sponsor***, ***sport sponsor***, ***religious institution*** and ***religious worker sponsor***: see regulation 1.03.

401.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 401 visa include criteria set out in streams.

If an applicant applies for a Subclass 401 visa in the Exchange stream, the criteria in Subdivisions 401.21 and 401.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 401 visa in the Sport stream, the criteria in Subdivisions 401.21 and 401.23 are the primary criteria.

If an applicant applies for a Subclass 401 visa in the Religious Worker stream, the criteria in Subdivisions 401.21 and 401.24 are the primary criteria.

If an applicant applies for a Subclass 401 visa in the Domestic Worker (Executive) stream, the criteria in Subdivisions 401.21 and 401.25 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds one of the following visas on the basis of satisfying the primary criteria:

(a) a Subclass 411 (Exchange) visa;

(b) a Subclass 421 (Sport) visa;

(c) a Subclass 427 (Domestic Worker (Temporary)—Executive) visa;

(d) a Subclass 428 (Religious Worker) visa.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

401.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 401 visa.

401.211

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:

(i) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(iii) a Subclass 771 (Transit) visa; or

(iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

401.212

(1) The applicant is identified in a nomination of an occupation or activity approved under section 140GB of the Act.

(2) The nomination was made by a person who was, at the time the nomination was approved:

(a) a long stay activity sponsor; or

(b) an exchange sponsor; or

(c) a sport sponsor; or

(d) a religious worker sponsor.

(3) The approval of the nomination has not ceased under regulation 2.75A.

(4) Either:

(a) there is no adverse information known to Immigration about the person who made the approved nomination or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination or a person associated with that person.

401.213

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

401.214

The applicant genuinely intends to stay temporarily in Australia to carry out the occupation or activity for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 401 visa would be subject; and

(c) any other relevant matter.

401.215

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

401.216

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

401.217

The applicant satisfies special return criteria 5001, 5002 and 5010.

401.22—Criteria for Exchange stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Exchange stream.

401.221

(1) The applicant is identified in a nomination by:

(a) a long stay activity sponsor who is a party to an exchange agreement; or

(b) an exchange sponsor.

(2) The nomination meets the criteria in subregulation 2.72J(3).

401.222

The exchange agreement between the long stay activity sponsor or the exchange sponsor and a reciprocating foreign organisation is still in place.

401.23—Criteria for Sport stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Sport stream.

401.231

(1) The applicant is identified in a nomination by:

(a) a long stay activity sponsor who is a sporting organisation; or

(b) a sport sponsor.

(2) The nomination meets the criteria in subregulation 2.72J(4).

401.232

If the nominated activity for which the applicant was identified in the nomination required a formal arrangement to be in place between the long stay activity sponsor or the sport sponsor and the applicant, the formal arrangement is still in place.

401.24—Criteria for Religious Worker stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Religious Worker stream.

401.241

(1) The applicant is identified in a nomination by:

(a) a long stay activity sponsor who is a religious institution; or

(b) a religious worker sponsor.

(2) The nomination meets the criteria in subregulation 2.72J(5).

401.25—Criteria for Domestic Worker (Executive) stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 401 visa in the Domestic Worker (Executive) stream.

401.251

(1) The applicant is identified in a nomination by a long stay activity sponsor who is a foreign organisation or a foreign government agency.

(2) The nomination meets the criteria in subregulation 2.72J(6).

(3) The applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

401.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria or holds one of the following visas on the basis of satisfying the primary criteria:

(a) a Subclass 411 (Exchange) visa;

(b) a Subclass 421 (Sport) visa;

(c) a Subclass 427 (Domestic Worker (Temporary)—Executive) visa;

(d) a Subclass 428 (Religious Worker) visa.

All criteria must be satisfied at the time a decision is made on the application.

401.31—Criteria

401.311

The applicant is a member of the family unit of a person (the primary applicant) who holds any of the following visas granted on the basis of satisfying the primary criteria:

(a) a Subclass 401 visa;

(b) a Subclass 411 (Exchange) visa;

(c) a Subclass 421 (Sport) visa;

(d) a Subclass 427 (Domestic Worker (Temporary)—Executive) visa;

(e) a Subclass 428 (Religious Worker) visa.

401.312

The approved sponsor of the primary applicant:

(a) has agreed, in writing, to be the sponsor of the applicant; and

(b) has not withdrawn its agreement to be the sponsor in relation to the applicant; and

(c) has not ceased to be the sponsor of the primary applicant; and

(d) either:

(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

401.313

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

401.314

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

401.315

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

401.316

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

401.317

The applicant satisfies special return criteria 5001, 5002 and 5010.

401.4—Circumstances applicable to grant

401.411

If the applicant was in Australia at the time of application, the applicant:

(a) must be in Australia when the visa is granted; but

(b) must not be in immigration clearance.

401.412

If the applicant was outside Australia at the time of application, the applicant must be outside Australia when the visa is granted.

401.5—When visa is in effect

401.511

Temporary visa permitting the holder:

(a) to travel to, and enter, Australia on one or more occasions until a date, not later than 2 years after the date the visa is granted, specified by the Minister; and

(b) to remain in Australia for:

(i) 2 years after the date the visa is granted; or

(ii) a lesser period specified by the Minister.

401.6—Conditions

401.611

If the applicant satisfies the primary criteria for the grant of the visa, conditions 8107, 8303 and 8501 must be imposed.

401.612

If the applicant satisfies the secondary criteria for the grant of the visa, conditions 8303 and 8501 must be imposed.

401.613

Conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 402—Training and Research

402.1—Interpretation

402.111

In this Part:

***adverse information*** has the meaning given by subregulation 2.57(3).

***associated with*** has the meaning given by subregulation 2.57(2).

***completed***, in relation to a principal course,means:

(a) for an award course—having met the academic requirements for the award; and

(b) for a non‑award course—having met the course requirements.

Note: The academic requirements for the award of an academic qualification do not include the formal conferral of the award. Therefore, a person can complete a principal course, for this Part, before the award is formally conferred.

***overseas employer*** has the meaning given by subregulation 2.57(1).

***principal course*** has the meaning given by regulation 1.40.

***professional development agreement*** has the meaning given by subregulation 2.57(1).

Note: For ***occupational trainee sponsor***, ***professional development sponsor***, ***training and research sponsor*** and ***visiting academic sponsor***: see regulation 1.03.

402.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 402 visa include criteria set out in streams.

If an applicant applies for a Subclass 402 visa in the Occupational Trainee stream, the criteria in Subdivisions 402.21 and 402.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 402 visa in the Research stream, the criteria in Subdivisions 402.21 and 402.23 are the primary criteria.

If an applicant applies for a Subclass 402 visa in the Professional Development stream, the criteria in Subdivisions 402.21 and 402.24 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds one of the following visas on the basis of satisfying the primary criteria:

* a Subclass 419 (Visiting Academic) visa;
* a Subclass 442 (Occupational Trainee) visa.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

402.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 402 visa.

402.211

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:

(i) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(iii) a Subclass 771 (Transit) visa; or

(iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

402.212

Either:

(a) the applicant has turned 18; or

(b) the applicant has not turned 18 and seeks to enter Australia to participate in an occupational training program relating to sport; or

(c) the applicant has not turned 18 and exceptional circumstances exist for the grant of the visa.

402.213

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

402.214

The applicant genuinely intends to stay temporarily in Australia to carry out the occupation, program or activity for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 402 visa would be subject; and

(c) any other relevant matter.

402.215

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

402.216

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

402.217

The applicant satisfies special return criteria 5001, 5002 and 5010.

402.22—Criteria for Occupational Trainee stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Occupational Trainee stream.

402.221

(1) Either:

(a) if the occupational training is not to be provided to the applicant by the Commonwealth:

(i) the applicant is identified in a nomination by a training and research sponsor or an occupational trainee sponsor; and

(ii) the nomination meets the criteria in regulation 2.72I; and

(iii) the approval of the nomination has not ceased under regulation 2.75A; and

(iv) either:

(A) there is no adverse information known to Immigration about the nominator or a person associated with the nominator; or

(B) it is reasonable to disregard any adverse information known to Immigration about the nominator or a person associated with the nominator; or

(b) if the occupational training is to be provided to the applicant by the Commonwealth:

(i) a training and research sponsor or an occupational trainee sponsor has agreed, in writing, to be the approved sponsor in relation to the applicant; and

(ii) the sponsor has not withdrawn its agreement to be the approved sponsor in relation to the applicant and has not ceased to be an approved sponsor.

(2) For subclause (1), occupational training to be provided by the Commonwealth includes occupational training to be provided by:

(a) a body corporate incorporated for a public purpose under an Act or regulations made under an Act; or

(b) an authority or body (other than a body corporate) established for a public purpose under an Act or regulations made under an Act.

402.222

Occupational opportunities available to Australian citizens or permanent residents of Australia will not be adversely affected if the visa is granted.

402.223

(1) This clause applies if the applicant was in Australia at the time of application and:

(a) at that time, the applicant held a visa of one of the following subclasses:

(i) Subclass 570 (Independent ELICOS Sector);

(ii) Subclass 572 (Vocational Education and Training Sector);

(iii) Subclass 573 (Higher Education Sector);

(iv) Subclass 574 (Postgraduate Research Sector);

(v) Subclass 575 (Non‑Award Sector); or

(b) if the applicant did not hold a substantive visa at that time, the last substantive visa held by the applicant was a visa mentioned in paragraph (a).

(2) Either:

(a) the applicant:

(i) has completed the principal course, at the diploma level or higher, in Australia in relation to which:

(A) the visa held by the applicant at the time of application was granted; or

(B) if the applicant did not hold a substantive visa at the time of application—the last substantive visa held by the applicant was granted; and

(ii) seeks to undertake occupational training closely related to the principal course; and

(iii) would complete the occupational training within 12 months; or

(b) the applicant:

(i) has completed the principal course in Australia in relation to which:

(A) the visa held by the applicant at the time of application was granted; or

(B) if the applicant did not hold a substantive visa at the time of application—the last substantive visa held by the applicant was granted; and

(ii) must complete a period of practical employment experience in order to obtain registration in a profession in which registration is a prerequisite for the practice of the profession in:

(A) the applicant’s usual country of residence; or

(B) Australia.

402.23—Criteria for Research stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Research stream.

402.231

Each of the following applies:

(a) a training and research sponsor or a visiting academic sponsor (the ***sponsor***) has agreed, in writing, to be the approved sponsor in relation to the applicant;

(b) the sponsor is an Australian tertiary or research institution;

(c) the sponsor has not withdrawn its agreement to be the sponsor in relation to the applicant and has not ceased to be the sponsor;

(d) either:

(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

402.232

The applicant will observe or participate in an Australian research project:

(a) at the sponsoring Australian tertiary or research institution; and

(b) in collaboration with other academics employed by the institution.

402.233

The applicant:

(a) is employed, or was formerly employed, as an academic at a tertiary education institution or research institution; and

(b) has a significant record of achievement in his or her field.

402.234

The applicant will not receive from the sponsor a salary, scholarship or allowance (other than an allowance for living expenses in Australia and travel costs).

402.24—Criteria for Professional Development stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 402 visa in the Professional Development stream.

402.241

Each of the following applies:

(a) a professional development sponsor (the ***sponsor***) has agreed, in writing, to be the approved sponsor in relation to the applicant;

(b) the sponsor has not withdrawn its agreement to be the sponsor in relation to the applicant and has not ceased to be the sponsor;

(c) either:

(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

402.242

The applicant:

(a) has an overseas employer; and

(b) is in a managerial or professional position in relation to the overseas employer.

402.243

There is no information indicating that any of the parties to the professional development agreement are unable to meet their financial commitments under the agreement.

402.244

The sponsor is satisfied that the applicant:

(a) will undertake the professional development program mentioned in the visa application; and

(b) has managerial or other professional skills and work experience that are relevant to that program.

402.245

The sponsor is satisfied in relation to the applicant’s English language proficiency for the purposes of undertaking the professional development program mentioned in the visa application.

402.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who:

(a) satisfies the primary criteria; or

(b) holds one of the following visas on the basis of satisfying the primary criteria:

* a Subclass 419 (Visiting Academic) visa;
* a Subclass 442 (Occupational Trainee) visa.

All criteria must be satisfied at the time a decision is made on the application.

402.31—Criteria

402.311

The applicant is a member of the family unit of a person (the primary applicant) who holds any of the following visas granted on the basis of satisfying the primary criteria:

(a) a Subclass 402 visa in the Occupational Trainee stream;

(b) a Subclass 402 visa in the Research stream;

(c) a Subclass 419 (Visiting Academic) visa;

(d) a Subclass 442 (Occupational Trainee) visa.

402.312

If the primary applicant applied for the visa mentioned in clause 402.311 on or after 14 September 2009, the approved sponsor of the primary applicant:

(a) has agreed, in writing, to be the sponsor of the applicant; and

(b) has not withdrawn its agreement to be the sponsor in relation to the primary applicant; and

(c) has not ceased to be the sponsor of the applicant; and

(d) either:

(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

402.313

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

402.314

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

402.315

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

402.316

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

402.317

The applicant satisfies special return criteria 5001, 5002 and 5010.

402.4—Circumstances applicable to grant

402.411

An applicant for a Subclass 402 visa in the Professional Development stream must be outside Australia when the visa is granted.

402.412

Any other applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

402.5—When visa is in effect

402.511

Temporary visa permitting the holder:

(a) to travel to, and enter, Australia on one or more occasions until a date specified by the Minister; and

(b) to remain in Australia for a period specified by the Minister.

402.6—Conditions

402.611

(1) If the applicant satisfies the primary criteria for the grant of a Subclass 402 visa in the Occupational Trainee stream:

(a) conditions 8102, 8303, 8501 and 8516 must be imposed; and

(b) conditions 8106, 8301, 8502, 8503, 8522, 8525 and 8526 may be imposed.

(2) If the applicant satisfies the primary criteria for the grant of a Subclass 402 visa in the Research stream:

(a) conditions 8103, 8107, 8303, 8501 and 8516 must be imposed; and

(b) conditions 8106, 8301, 8502, 8503, 8522, 8525 and 8526 may be imposed.

(3) If the applicant satisfies the primary criteria for the grant of a Subclass 402 visa in the Professional Development stream:

(a) conditions 8102, 8303, 8501, 8503, 8516, 8531 and 8536 must be imposed; and

(b) conditions 8106, 8301, 8502, 8522, 8525 and 8526 may be imposed.

402.612

(1) If the applicant satisfies the secondary criteria for the grant of a Subclass 402 visa on the basis of being a member of the family unit of a person who holds a Subclass 402 visa in the Occupational Trainee stream:

(a) conditions 8104, 8303 and 8501 must be imposed; and

(b) conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

(2) In any other case, if the applicant satisfies the secondary criteria:

(a) conditions 8303 and 8501 must be imposed; and

(b) conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 403—Temporary Work (International Relations)

403.1—Interpretation

403.111

In this Part:

***Australian signatory*** is a department or agency of:

(a) the Commonwealth; or

(b) a State or Territory;

that is a signatory to the relevant agreement.

***foreign government agency*** has the meaning given by subregulation 2.57(1).

***foreign signatory*** means a government, of a foreign country, that is a signatory to the relevant agreement.

relevant agreement means a written agreement that:

(a) is in effect; and

(b) is between:

(i) a department or agency of the Commonwealth, a State or a Territory; and

(ii) a government of a foreign country; and

(c) is at least partly for the purpose of facilitating the temporary entry of people to Australia; and

(d) is not an agreement or arrangement, or a type of agreement or arrangement, that is specified by the Minister in an instrument in writing for this paragraph.

Note: For ***Foreign Minister***: see regulation 1.03.

403.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 403 visa include criteria set out in streams.

An applicant must satisfy the criteria in Subdivision 403.21 and also in one of Subdivisions 403.22 to 403.25.

An application for a Subclass 403 visa will be assessed against as many streams as necessary, whether or not the applicant specifies a particular stream in the application. The criteria in Subdivisions 403.22 to 403.25 will be used in turn as primary criteria for the grant of the visa as the application is assessed.

The primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds one of the following visas on the basis of satisfying the primary criteria:

* a Subclass 419 (Visiting Academic) visa;
* a Subclass 406 (Government Agreement) visa;
* a Subclass 415 (Foreign Government Agency) visa.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

403.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 403 visa.

403.211

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

403.212

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 403 visa would be subject; and

(c) any other relevant matter.

403.213

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

403.214

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

403.215

The applicant satisfies special return criteria 5001, 5002 and 5010.

403.22—Criteria for Government Agreement stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Government Agreement stream.

403.221

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:

(i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(iii) a Subclass 771 (Transit) visa; or

(iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

403.222

(1) The applicant will be engaged in work, or an activity, in Australia in accordance with the terms and conditions of a relevant agreement.

(2) The applicant meets the requirements of the relevant agreement.

(3) An Australian signatory agrees to the applicant’s stay in Australia.

(4) The foreign signatory agrees to the applicant’s stay in Australia.

(5) If the foreign signatory is not the national government of the relevant foreign country, the national government of the foreign country does not oppose the applicant’s stay in Australia.

403.223

If the Minister has required the applicant to provide a letter from an Australian signatory stating that the Australian signatory is satisfied that:

(a) the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards; and

(b) the applicant has complied with any licensing, registration or equivalent requirements associated with the applicant’s employment or engagement;

the applicant has provided the letter.

403.224

The employment or engagement of the applicant would be of benefit to Australia.

403.225

(1) The applicant satisfies public interest criterion 4005.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

403.23—Criteria for Foreign Government Agency stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Foreign Government Agency stream.

403.231

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:

(i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(iii) a Subclass 771 (Transit) visa; or

(iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

403.232

The applicant is:

(a) a person who:

(i) seeks to enter Australia to be employed as a representative of a foreign government agency that does not enjoy official status in Australia; and

(ii) would not, as a representative of that kind, enjoy official status in Australia; or

(b) a foreign language teacher intending to work in an Australian school but as an employee of a foreign government.

403.233

The employment or engagement of the applicant would be of benefit to Australia.

403.234

The application has the support, in writing, of the foreign government agency.

403.235

(1) The applicant satisfies public interest criterion 4005.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

403.24—Criteria for Domestic Worker (Diplomatic or Consular) stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream.

403.241

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held:

(i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive visa held by the applicant was a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3003 and 3004.

403.242

If the application is made in Australia:

(a) the applicant is undertaking full‑time domestic duties in the household of a person:

(i) who holds a subclass 995 Diplomatic (Temporary) visa; and

(ii) who had entered into an employment agreement with the applicant on the basis of which the applicant was previously granted a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream or a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(b) the applicant seeks to remain in Australia to undertake full‑time domestic duties in the household of a person:

(i) for whom the applicant is not currently undertaking full‑time domestic duties; and

(ii) who holds a Subclass 995 (Diplomatic (Temporary)) visa; and

(iii) who has entered into an employment agreement with the applicant in relation to those duties.

403.243

If the application is made outside Australia, the applicant:

(a) has turned 18; and

(b) seeks to enter Australia to undertake full‑time domestic duties in the household of a person who:

(i) holds a Subclass 995 (Diplomatic (Temporary)) visa; and

(ii) is not a permanent resident of Australia; and

(iii) has entered into an employment agreement with the applicant in relation to those duties; and

(c) is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

403.244

The application has the support, in writing, of the Foreign Minister.

403.245

(1) The applicant satisfies public interest criterion 4005.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

403.25—Criteria for Privileges and Immunities stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Privileges and Immunities stream.

403.251

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:

(i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(ii) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or

(iii) a Subclass 771 (Transit) visa; or

(iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

403.252

(1) The applicant is a person to whom privileges and immunities are, or are expected to be, accorded to the applicant under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*.

(2) The application has the support, in writing, of the Foreign Minister.

403.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who:

(a) satisfies the primary criteria; or

(b) holds one of the following visas on the basis of satisfying the primary criteria:

* a Subclass 406 (Government Agreement) visa;
* a Subclass 415 (Foreign Government Agency) visa.

All criteria must be satisfied at the time a decision is made on the application.

403.31—Criteria

403.311

The applicant is a member of the family unit of a person (the primary applicant) who holds any of the following visas granted on the basis of satisfying the primary criteria:

(a) a Subclass 403 visa in the Government Agreement stream;

(b) a Subclass 403 visa in the Foreign Government Agency stream;

(c) a Subclass 403 visa in the Privileges and Immunities stream;

(d) a Subclass 406 (Government Agreement) visa;

(e) a Subclass 415 (Foreign Government Agency) visa.

403.312

If the primary applicant holds a Subclass 403 visa in the Government Agreement stream or a Subclass 406 (Government Agreement) visa:

(a) the relevant agreement permits the applicant to enter Australia as a member of the family unit of the primary applicant; and

(b) an Australian signatory has agreed to the applicant’s stay in Australia; and

(c) if the relevant agreement contains terms and conditions that apply to a member of the family unit of the primary applicant, the applicant meets the requirements of the terms and conditions.

403.313

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant’s intended stay in Australia.

403.314

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

403.315

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant’s intended stay in Australia.

403.316

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

(3) If the primary applicant holds:

(a) a Subclass 403 visa in the Government Agreement stream; or

(b) a Subclass 403 visa in the Foreign Government Agency stream; or

(c) a Subclass 406 (Government Agreement) visa; or

(d) a Subclass 415 (Foreign Government Agency) visa;

the applicant satisfies public interest criterion 4005.

(4) If:

(a) the primary applicant holds:

(i) a Subclass 403 visa in the Government Agreement stream; or

(ii) a Subclass 403 visa in the Foreign Government Agency stream; or

(iii) a Subclass 406 (Government Agreement) visa; or

(iv) a Subclass 415 (Foreign Government Agency) visa; and

(b) the applicant had turned 18 at the time of application;

the applicant satisfies public interest criterion 4019.

403.317

The applicant satisfies special return criteria 5001, 5002 and 5010.

403.4—Circumstances applicable to grant

403.411

If the application is made in Australia, the applicant:

(a) must be in Australia when the visa is granted; but

(b) must not be in immigration clearance.

403.412

If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

403.5—When visa is in effect

403.511

Temporary visa permitting the holder:

(a) to travel to and enter Australia, during a period specified by the Minister:

(i) more than once; or

(ii) if the Minister specifies—once only; and

(b) to remain in Australia for a period specified by the Minister.

403.6—Conditions

403.611

Conditions 8303, 8501 and 8516 must be imposed.

403.612

If the visa is:

(a) a Subclass 403 visa in the Government Agreement stream; or

(b) a Subclass 403 visa in the Foreign Government Agency stream; or

(c) a Subclass 403 visa in the Privileges and Immunities stream;

condition 8107 must be imposed.

403.613

If the visa is a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream, condition 8110 must be imposed.

403.614

Conditions 8106, 8301, 8502, 8503, 8522, 8525 and 8526 may be imposed.

Subclass 405—Investor Retirement

405.1—Interpretation

405.111

In this Part:

***designated investment*** means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note: For ***appropriate regional authority***, see regulation 1.03.

405.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

405.21—Criteria to be satisfied at time of application

Note 1: No criteria to be satisfied at time of application if applicant is outside Australia at that time.

Note 2: The requirements for making a valid application for an Investor Retirement (Class UY) visa are set out in item 1212B of Schedule 1.

405.211

If the applicant is in Australia, the applicant:

(a) must be the holder of a substantive visa; or

(b) must:

(i) have held a substantive visa since last entering Australia; and

(ii) satisfy Schedule 3 criteria 3002, 3004 and 3005.

405.22—Criteria to be satisfied at time of decision

405.221

The family unit of the applicant does not include:

(a) if the applicant has a spouse or de facto partner—any other person dependent on the applicant or the applicant’s spouse or de facto partner; or

(b) if the applicant does not have a spouse or de facto partner—any person dependent on the applicant.

405.222

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

405.223

If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

405.224

If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

405.225

The Minister may waive the requirement of clause 405.224 if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

405.226

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

405.227

(1) This clause applies to an applicant other than an applicant to whom clause 405.228 applies.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the net value of the applicant’s assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD500 000; and

(b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and

(c) the applicant has made a designated investment of an amount of at least AUD500 000, in the applicant’s name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the net value of the applicant’s assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD750 000; and

(b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

(c) the applicant has made a designated investment of an amount of at least AUD750 000, in the applicant’s name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being the assets mentioned in paragraph (2)(a) or (3)(a), any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded):

(a) are legally owned and lawfully acquired by:

(i) the applicant; or

(ii) the applicant’s spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together; and

(b) other than resources relating to inheritance, or to the applicant’s, the spouse’s or the de facto partner’s superannuation or pension—have been held by any combination of:

(i) the applicant; and

(ii) the applicant’s spouse or de facto partner; and

(iii) the applicant and his or her spouse or de facto partner together;

throughout the 2 years immediately before the application for an Investor Retirement (Class UY) visa is made.

(5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any) have adequate health insurance cover in Australia for the period of:

(a) the applicant’s intended stay in Australia as the holder of a Subclass 405 visa; and

(b) if the applicant has a spouse or de facto partner—the spouse’s or de facto partner’s intended stay in Australia as the holder of a Subclass 405 visa.

(6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4019 and 4021.

(7) The applicant’s spouse or de facto partner (if any) satisfies:

(a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014; and

(b) if the applicant’s spouse or de facto partner had turned 18 at the time of application—public interest criterion 4019.

405.228

(1) This clause applies to an applicant if:

(a) the applicant is the holder of a Subclass 405 visa; or

(b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and

(b) the applicant has made and maintained a designated investment of an amount of at least AUD250 000, in the applicant’s name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

(b) the applicant has made and maintained a designated investment of an amount of at least AUD500 000, in the applicant’s name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded) are legally owned and lawfully acquired by:

(a) the applicant; or

(b) the applicant’s spouse or de facto partner; or

(c) the applicant and his or her spouse or de facto partner together.

(5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any):

(a) have had adequate health insurance cover in Australia for the period of:

(i) the applicant’s stay in Australia as the holder of a Subclass 405 visa; and

(ii) if the applicant has a spouse or de facto partner—the spouse’s or de facto partner’s stay in Australia as the holder of a Subclass 405 visa; and

(b) continue to have adequate health insurance cover in Australia for the period of:

(i) the applicant’s intended stay in Australia as the holder of a Subclass 405 visa; and

(ii) if the applicant has a spouse or de facto partner—the spouse’s or de facto partner’s intended stay in Australia as the holder of a Subclass 405 visa.

(6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4019 and 4021.

(6A) The applicant’s spouse or de facto partner (if any) satisfies:

(a) public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014; and

(b) if the applicant’s spouse or de facto partner had turned 18 at the time of application—public interest criterion 4019.

(7) The applicant and the applicant’s spouse or de facto partner (if any) are free from tuberculosis.

(8) The applicant and the applicant’s spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant’s spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community.

(9) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow‑up medical assessment—the applicant has provided such an undertaking.

405.3—Secondary criteria

Note: These criteria must be satisfied by any applicant who is a member of the family unit of a person who satisfies the primary criteria.

405.31—Criteria to be satisfied at time of application

405.311

The applicant is the spouse or de facto partner of a person who satisfies the primary criteria for the grant of a Subclass 405 visa.

405.312

If the applicant is outside Australia and the application is made separately from that of the applicant’s spouse or de facto partner:

(a) the spouse or de facto partner is, or is expected soon to be, in Australia; and

(b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

405.32—Criteria to be satisfied at time of decision

405.321

The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 405 visa.

405.322

The applicant continues to satisfy the criteria in clause 405.312.

405.323

The family unit of the applicant does not include any person (other than the applicant’s spouse or de facto partner) dependent on the applicant or the applicant’s spouse or de facto partner.

405.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

405.325

If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

405.326

If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

405.327

The Minister may waive the requirement of clause 405.326 if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

405.328

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

405.329

(1) This clause applies to an applicant other than an applicant to whom clause 405.330 applies.

(2) The Minister is satisfied that the applicant has adequate health insurance cover in Australia for the period of the applicant’s intended stay in Australia as the holder of a Subclass 405 visa.

(3) The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

405.330

(1) This clause applies to an applicant if:

(a) the applicant is the holder of a Subclass 405 visa; or

(b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.

(2) The Minister is satisfied that the applicant:

(a) has had adequate health insurance cover in Australia for the period of the applicant’s stay in Australia as the holder of a Subclass 405 visa; and

(b) continues to have adequate health insurance cover in Australia for the period of the applicant’s intended stay in Australia as the holder of a Subclass 405 visa.

(3) The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

(4) The applicant is free from tuberculosis.

(5) The applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

(6) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow‑up medical assessment—the applicant has provided such an undertaking.

405.4—Circumstances applicable to grant

405.411

If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

405.412

If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

405.5—When visa is in effect

405.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

405.6—Conditions

405.611

Conditions 8104, 8501 and 8516 must be imposed.

405.612

Any 1 or more of conditions 8301, 8303, 8502, 8522, 8525 and 8526 may be imposed.

Subclass 410—Retirement

410.1—Interpretation

Note: No interpretation provisions specific to this Part.

410.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

410.21—Criteria to be satisfied at time of application

Note: No criteria to be satisfied at time of application if applicant is outside Australia at that time.

410.211

(1) If the applicant is in Australia, the applicant meets the requirements of subclause (2) or (3).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of a Retirement (Temporary) (Class TQ) visa.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant is not the holder of a substantive visa; and

(b) the last substantive visa held by the applicant was a Retirement (Temporary) (Class TQ) visa; and

(c) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

410.22—Criteria to be satisfied at the time of decision

410.221

(1) Either:

(a) the applicant is a person to whom subparagraph 1217(2)(a)(i) of Schedule 1 applies; or

(b) if paragraph (a) does not apply, the applicant satisfies subclauses (2) to (8).

(2) The applicant has turned 55.

(3) If the applicant intends to reside in Australia with his or her spouse or de facto partner, the family unit of the applicant does not include any other person dependent on the applicant or the applicant’s spouse or de facto partner.

(4) If the applicant intends to reside in Australia without a spouse or de facto partner, the family unit of the applicant does not include a person dependent on the applicant.

(5) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

(6) If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

(7) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

(8) The applicant satisfies this subclause if:

(a) the applicant and the applicant’s spouse or de facto partner (if any) satisfy public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4019; and

(b) the applicant and the applicant’s spouse or de facto partner (if any) are free from tuberculosis; and

(c) the applicant and the applicant’s spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant’s spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community; and

(d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow‑up medical assessment—the applicant has provided such an undertaking.

410.222

The applicant satisfies public interest criterion 4021.

410.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

410.31—Criteria to be satisfied at time of application

410.311

The applicant is the spouse or de facto partner of a person who has applied for a Retirement (Temporary) (Class TQ) visa.

410.312

If the applicant is outside Australia and the application is made separately from that of the applicant’s spouse or de facto partner:

(a) the spouse or de facto partner is, or is expected soon to be, in Australia; and

(b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

410.32—Criteria to be satisfied at the time of decision

410.321

(1) Either:

(a) the applicant is the spouse or de facto partner of a person to whom subparagraph 1217(2)(a)(i) of Schedule 1 applies; or

(b) if paragraph (a) does not apply, the applicant satisfies subclauses (2) to (7).

(2) The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 410 visa.

(3) The applicant satisfies this subclause if:

(a) the applicant:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014; and

(ii) satisfies public interest criterion 4019, if he or she had turned 18 at the time of application; and

(b) the applicant is free from tuberculosis; and

(c) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and

(d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow‑up medical assessment—the applicant has provided such an undertaking.

(5) If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

(6) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

(7) If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

(8) The Minister may waive the requirements of subclause (7) if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

410.322

The applicant satisfies public interest criterion 4021.

410.4—Circumstances applicable to grant

410.411

If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

410.412

If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

410.5—When visa is in effect

410.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) in the case of a visa granted to an applicant (other than an applicant mentioned in paragraph 410.221(1)(a) or 410.321(1)(a))—until a date specified by the Minister; or

(b) in the case of a visa granted to an applicant to whom subparagraph 1217(2)(a)(i) of Schedule 1 applies—until the day on which the earlier visa mentioned in that subparagraph would have expired.

410.6—Conditions

410.612

Any 1 or more of conditions 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Note: There are no mandatory conditions.