



Migration Regulations 1994

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made under the

Migration Act 1958

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- 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

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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 1 July 2015 (the **compilation date**).

This compilation was prepared on 7 July 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 416—Special Program

416.1—Interpretation

Note: No interpretation provisions specific to this Part.

416.2—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.

416.21—Criteria to be satisfied at time of application

Note: If the applicant is outside Australia at time of application, there are no criteria to be satisfied at time of application.

416.211

If the applicant is in the migration zone at the time of application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a Subclass 771 visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

416.22—Criteria to be satisfied at time of decision

416.222

The Minister is satisfied that:

Clause 416.222A

- (a) the applicant seeks to enter or remain in Australia to participate in an approved special program (other than a special program of seasonal work) conducted by the special program sponsor in relation to the applicant; or
- (d) the applicant seeks to enter Australia to participate in a special program of seasonal work conducted by the special program sponsor in relation to the applicant.

416.222A

The Minister is satisfied that:

- (a) a special program sponsor has agreed in writing to be the special program sponsor in relation to the applicant; and
- (b) the special program sponsor is not barred from sponsoring the applicant under paragraph 140M(1)(c) of the Act; and
- (c) either:
 - (i) there is no adverse information known to Immigration about the special program sponsor mentioned in paragraph (a) or a person associated with that special program sponsor; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the special program sponsor mentioned in paragraph (a) or a person associated with that special program sponsor.

416.222B

The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity mentioned in clause 416.222.

416.222C

The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;
taking into account the applicant's work rights during the period of
the applicant's intended stay in Australia.

416.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4012, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (c) if the applicant has not turned 18—satisfies public interest criteria 4017 and 4018.

416.223A

The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

416.224

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

416.225

If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

416.226

If the applicant was in the migration zone at time of application, 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.

Clause 416.228

416.228

- (1) For all applications, 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.
- (2) The Minister may waive the requirements of subclause (1) 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.

416.3—Secondary criteria

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

416.31—Criteria to be satisfied at time of application

416.311

Both of the following:

- (a) the applicant is a member of the family unit of a person who has applied for a Subclass 416 visa (the *primary applicant*);
- (b) the primary applicant is not seeking to satisfy the criterion in paragraph 416.222(d).

416.311A

Subject to clause 416.311B, if paragraph 416.222(a) applies to the member of the family unit who satisfies the primary criteria, the Minister is satisfied that the special program sponsor of the member of the family unit who satisfies the primary criteria has agreed in writing to be the special program sponsor in relation to the applicant.

416.311B

Clause 416.311A does not apply to an applicant who is a member of the family unit of the person who satisfies the primary criteria, and that person made his or her application before 14 September 2009.

416.312

If the applicant is outside Australia at time of application and the application is made separately from that of the person who seeks to satisfy or has satisfied the primary criteria, that person is, or is expected soon to be, in Australia.

416.32—Criteria to be met at time of decision

416.321

The applicant continues to be a member of the family unit of a person who:

- (a) having satisfied the primary criteria, is the holder of a Subclass 416 visa; but
- (b) was not granted the visa on the basis of satisfying the criterion in paragraph 416.222(d).

416.322

The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's stay in Australia.

416.323

The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012, 4013, 4014, 4020 and 4021; and

Clause 416.324

- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (d) in the case of an applicant who has not turned 18—satisfies public interest criteria 4017 and 4018.

416.324

If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

416.324A

If the applicant was in the migration zone at time of application, 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.

416.324B

The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

416.325

- (1) 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.
- (2) The Minister may waive the requirements of subclause (1) 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.

416.326

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

416.4—Circumstances applicable to grant

416.411

If the applicant satisfies the criterion in paragraph 416.222(d), the applicant must be outside Australia at the time of grant.

416.412

In any other case:

- (a) if the applicant was in the migration zone at time of application, the applicant must be in the migration zone, but not in immigration clearance, at the time of grant; and
- (b) if the applicant was outside Australia at time of application, the applicant must be outside Australia at time of grant.

416.5—When visa is in effect

416.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

416.6—Conditions

416.611

- (1) If the applicant satisfies the primary criteria, condition 8107 must be imposed.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 416 Special Program

Clause 416.611B

- (2) If the applicant satisfies the criterion in paragraph 416.222(d), conditions 8501 and 8503 must also be imposed.

416.611B

If the applicant satisfies the primary or secondary criteria, condition 8501 must be imposed.

416.612

Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 417—Working Holiday

417.1—Interpretation

417.111

In this Part:

regional Australia means a place specified by the Minister in an instrument in writing for the definition of ***regional Australia*** in subitem 1225(5) of Schedule 1.

specified work means work of a kind specified by the Minister in an instrument in writing for the definition of ***specified work*** in subitem 1225(5) of Schedule 1.

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in an instrument in writing under subparagraph 1225(3)(b)(i) or (ii) of Schedule 1.

417.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

417.21—Criteria to be satisfied at time of application

417.211

- (1) The applicant satisfies the criteria in subclauses (2), (4) and (5).
- (2) The applicant:
 - (b) has turned 18 but has not turned 31; and
 - (c) holds a working holiday eligible passport.
- (4) The Minister is satisfied that the applicant:

Clause 417.221

- (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
 - (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and
 - (ii) personal support for the purposes of a working holiday; and
 - (c) has a reasonable prospect of obtaining employment in Australia; and
 - (d) will not be accompanied by dependent children during his or her stay in Australia.
- (5) If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 visa, the Minister is satisfied that the applicant has carried out specified work in regional Australia for a total period of at least 3 months as the holder of that visa.

417.22—Criteria to be satisfied at time of decision

417.221

- (1) The applicant satisfies the criteria in subclauses (2) to (7).
- (2) The applicant:
 - (a) continues to satisfy the criteria in paragraph 417.211(2)(c) and subclauses 417.211(4) and (5); and
 - (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4019 and 4020.
- (3) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- (4) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (5) Approval of the application would not result in either:

- (a) the number of Subclass 417 visas granted in a financial year exceeding the maximum number of Subclass 417 visas, as determined by an instrument in writing, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 417, granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing, that may be granted in that financial year.
- (6) 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.
- (7) The Minister may waive the requirements of subclause (6) 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.

417.222

If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 visa:

- (a) the applicant has complied substantially with the conditions that applied to any visa held by the applicant; and
- (b) the applicant has not previously held more than 1 Subclass 417 visa in Australia.

417.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

417.4—Circumstances applicable to grant

417.411

If the applicant is not, and has not previously been, in Australia as the holder of a Subclass 417 visa granted at any time, the applicant must be outside Australia at the time of grant.

417.412

If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 visa:

- (a) if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant; or
- (b) if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

417.5—When visa is in effect

417.511

- (1) If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:
 - (a) to travel to and enter Australia within 12 months after the date of grant of the visa; and
 - (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.
- (2) If:
 - (a) the applicant is in Australia at the time of grant; and
 - (b) the applicant holds a Subclass 417 visa at the time of application;temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date that the visa mentioned in paragraph (b) would have otherwise ceased to be in effect.

- (3) If:
- (a) the applicant is in Australia at the time of grant; and
 - (b) the applicant does not hold a Subclass 417 visa at the time of application;
- temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

417.6—Conditions

417.611

Conditions 8547 and 8548.

417.612

Any 1 or more of conditions 8106, 8107, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 420—Temporary Work (Entertainment)

420.1—Interpretation

- Note 1: For *Arts Minister*: see regulation 1.03.
- Note 2: There are no interpretation provisions specific to this Part.

420.2—Primary criteria

- Note: The primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds a Subclass 423 (Media and Film Staff) visa on the basis of satisfying the primary criteria.
- 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.

420.21—Criteria

- Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 420 visa.

420.211

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.

420.212

- (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 an entertainment sponsor at the time the nomination was approved.
- (3) The nomination meets the criteria in regulation 2.72D.
- (4) The approval of the nomination has not ceased under regulation 2.75A.
- (5) 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.

420.213

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

420.214

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

Clause 420.215

- (b) whether the applicant intends to comply with the conditions to which the Subclass 420 visa would be subject; and
- (c) any other relevant matter.

420.215

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.

420.216

- (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.

420.217

The applicant satisfies special return criteria 5001, 5002 and 5010.

420.3—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 a Subclass 423 (Media and Film Staff) visa on the basis of satisfying the primary criteria.

All criteria must be satisfied at the time a decision is made on the application.

420.31—Criteria

420.311

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 420 visa;
- (b) a Subclass 423 (Media and Film Staff) visa.

420.312

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.

420.313

The applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

420.314

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

Clause 420.315

- (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.

420.315

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.

420.316

- (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.

420.317

The applicant satisfies special return criteria 5001, 5002 and 5010.

420.4—Circumstances applicable to grant

420.411

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.

420.412

If the applicant was outside Australia at the time of application, the applicant must be outside Australia when the visa is granted.

420.5—When visa is in effect

420.511

Temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on one or more occasions;
and
- (b) to remain in Australia for a period specified by the Minister.

420.6—Conditions

420.611

If the applicant satisfied the primary criteria for the grant of a Subclass 420 visa:

- (a) conditions 8107, 8109, 8303 and 8501 must be imposed; and
- (b) conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

420.612

If the applicant satisfied the secondary criteria for the grant of a Subclass 420 visa:

- (a) conditions 8303 and 8501 must be imposed; and
- (b) conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 444—Special Category

444.1—Interpretation

Note: No interpretation provisions specific to this Part.

444.2—Primary criteria

Note: The only criteria are those set out in paragraph 32(2)(a) of the Act and in regulation 5.15A. Under paragraph 32(2)(a) of the Act, the requirements are: that the applicant is a New Zealand citizen; that the applicant holds, and has presented to an officer or an authorised system, a New Zealand passport that is in force; and that the applicant is neither a behaviour concern non-citizen nor a health concern non-citizen.

The terms *behaviour concern non-citizen* and *health concern non-citizen* are defined in subsection 5(1) of the Act. Prescribed diseases in respect of a health concern non-citizen are set out in regulation 5.16. The definition of *behaviour concern non-citizen* includes a person who has been excluded from another country in certain circumstances. Those circumstances are set out in regulation 5.15.

Paragraph 32(2)(c) of the Act allows other classes of persons to be declared by the regulations as classes of persons for whom a visa of another class would be inappropriate, and the declaration of a class of persons is to be found in regulation 5.15A.

Under regulation 5.15A, the requirements are that the applicant is a New Zealand citizen who holds, and has presented to an officer, a New Zealand passport that is in force; that the applicant is not a health concern non-citizen; and that the applicant is a behaviour concern non-citizen only because he or she has been excluded from another country in circumstances that, in the Minister's opinion, do not warrant the exclusion of the applicant from Australia.

444.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

444.4—Circumstances applicable to grant

444.411

At the time of grant, the applicant must:

- (a) be in Australia; or
- (b) intend to travel to Australia on a pre-cleared flight and be in immigration clearance at a port outside Australia at which pre-clearance procedures are carried out.

Note: For *pre-cleared flight* see the Act, s 17.

444.5—When visa is in effect

444.511

Temporary visa permitting the holder to remain in Australia while the holder is a New Zealand citizen.

444.6—Conditions: Nil.

Subclass 445—Dependent Child

445.1—Interpretation

445.111

For this Part, the parent of an applicant is a visa-holding parent if he or she holds any of the following visas:

- (a) Subclass 309 (Spouse (Provisional));
- (aa) Subclass 309 (Partner (Provisional));
- (b) Subclass 310 (Interdependency (Provisional));
- (c) Subclass 445 (Dependent Child);
- (d) Subclass 820 (Spouse);
- (da) Subclass 820 (Partner);
- (e) Subclass 826 (Interdependency).

Note: For *dependent child*, see regulation 1.03.

445.2—Primary criteria

445.21—Criteria to be satisfied at time of application

445.211

The applicant:

- (a) is a dependent child of a visa-holding parent; and
- (b) is sponsored by the nominator or sponsor of the visa-holding parent.

445.22—Criteria to be satisfied at time of decision

445.221

The parent of the applicant continues to be a visa-holding parent.

445.222

The applicant continues to be a dependent child of the visa-holding parent.

445.223

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirements of this subclause if he or she continues to be sponsored by the nominator or sponsor of the visa-holding parent.
- (3) The applicant meets the requirements of this subclause if:
 - (a) either:
 - (i) the nominator or sponsor of the visa-holding parent has died; or
 - (ii) the relationship between the visa-holding parent and his or her nominator or sponsor has ceased, and either:
 - (A) the visa-holding parent has requested consideration under provisions relating to family violence in Subclass 100 or 801; or
 - (B) the visa-holding parent has requested consideration under provisions relating to parental arrangements for a child in Subclass 100 or 801; and
 - (b) the applicant is sponsored by the visa-holding parent.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is a dependent child of a parent holding a Subclass 445 visa; and
 - (b) the circumstances mentioned in subparagraph (3)(a)(i), or sub-subparagraph (3)(a)(ii)(A) or (B) apply; and
 - (c) the applicant is sponsored by the person who is required to satisfy the primary criteria in Subclass 100 or 801.

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

Clause 445.224

445.224

The sponsorship mentioned in clause 445.223 has been approved by the Minister and is still in force.

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

445.225

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.

445.226

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

445.227

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 445 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 445 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criteria 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

445.228

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.

445.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are dependent children of, and who have made a combined application with, the person who satisfies the primary criteria.

445.31—Criteria to be satisfied at time of application

445.311

The applicant is a dependent child of, and made a combined application with, the person who satisfies the primary criteria for a Subclass 445 visa.

445.312

The sponsorship mentioned in paragraph 445.211(c) for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.32—Criteria to be satisfied at time of decision

445.321

The applicant continues to be a dependent child of the person who, having satisfied the primary criteria, is the holder of a Subclass 445 visa.

Clause 445.322

445.322

The sponsorship mentioned in clause 445.223 for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.323

The sponsorship mentioned in clause 445.322 has been approved by the Minister and is still in force.

445.324

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.

445.325

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

445.4—Circumstances applicable to grant

445.411

If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

445.412

If the application is made in Australia, the applicant must be in Australia when the visa is granted.

445.5—When a visa is in effect

445.511

Temporary visa permitting the holder to travel to, enter and remain in Australia within the visa period of the Extended Eligibility (Temporary) (Class TK) visa, Partner (Provisional) (Class UF) visa or Partner (Temporary) (Class UK) visa held by the person on whom the applicant is dependent.

445.6—Conditions: Nil.

Subclass 449—Humanitarian Stay (Temporary)

449.1—Interpretation

Note: No interpretation provisions specific to this Part.

449.2—Primary criteria

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

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

449.22—Criteria to be satisfied at time of decision

449.221

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if:
 - (a) the applicant has been displaced from his or her place of residence, and:
 - (i) cannot reasonably return to that place of residence; and
 - (ii) is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, he or she was displaced from that place of residence; or
 - (b) the applicant has not been displaced from his or her place of residence, but:
 - (i) there is a strong likelihood that the applicant will be displaced from that place of residence; and
 - (ii) the applicant is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, the applicant may be displaced from that place of residence.

- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) is a member of the immediate family of a holder of a Subclass 449 visa (*the visa holder*); and
 - (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 449 visa.

449.223

Grant of the visa would not result in either:

- (a) the number of Subclass 449 visas granted in a financial year exceeding the maximum number of Subclass 449 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 449, 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.

449.224

- (1) The applicant satisfies public interest criteria 4002 and 4003A.
- (2) The applicant 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.

449.3—Secondary criteria

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

Clause 449.321

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

449.32—Criteria to be satisfied at time of decision

449.321

The applicant:

- (a) is a member of the family unit of a person who, having met the requirements of subclause 449.221(2), is the holder of a Subclass 449 visa; or
- (b) is a member of the immediate family of a person who, having met the requirements of subclause 449.221(3), is the holder of a Subclass 449 visa.

449.322

- (1) The applicant satisfies public interest criteria 4002 and 4003A.
- (2) The applicant 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.

449.323

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

449.4—Circumstances applicable to grant

449.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

449.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

449.5—When visa is in effect

449.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

449.6—Conditions

449.611

Condition 8506.

449.612

Condition 8101 or 8104 may be imposed.

449.612A

Condition 8303 may be imposed.

449.613

If the Minister is satisfied that it would be unreasonable to require an applicant to undergo assessment in relation to criterion 4007, condition 8529.

Note: See subclauses 449.224(2) and 449.322(2).

Subclass 457—Temporary Work (Skilled)

457.1—Interpretation

457.111

- (1) In this Part:

adverse information has the meaning given by subregulation 2.57(3).

Note: For *AUD*, *labour agreement*, *ownership interest* and *standard business sponsor*: see regulation 1.03.

- (3) In this Part:

- (a) a person is *associated with* a corporation, partnership, unincorporated association or other entity that has made a nomination in relation to an applicant for a visa in the same way in which, under subregulation 2.57(2), a person is associated with an applicant; and
- (b) subregulation 2.57(2) is to be applied as if a reference in that subregulation to an applicant were a reference to the person who has made the nomination in relation to the applicant; and
- (c) an expression in subregulation 2.57(2) that is defined in subregulation 2.57(1) has the meaning given by that subregulation.

457.2—Primary criteria

Note: The primary criteria must be satisfied by at least one applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

457.21—Criteria to be satisfied at time of application

457.211

If the applicant is in Australia at the time of application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a Subclass 771 (Transit) visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

Note: *Special purpose visa* is defined in subsection 5(1) of the Act.

457.22—Criteria to be satisfied at time of decision

457.221

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.

457.221A

If the applicant was outside Australia at the time of making their application, but inside Australia at the time of the decision on the application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of the decision on the application:
 - (i) the last substantive visa held by the applicant was not a Subclass 771 (Transit) visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

Note: *Special purpose visa* is defined in subsection 5(1) of the Act.

Clause 457.223

457.223

- (1) The applicant meets the requirements of subclause (2) or (4).

Labour agreements

- (2) The applicant meets the requirements of this subclause if:
- (a) the occupation specified in the application is the subject of a labour agreement; and
 - (b) a nomination of an occupation in relation to the applicant:
 - (i) has been approved under section 140GB of the Act; and
 - (ii) has not ceased to have effect under regulation 2.75; and
 - (c) the applicant is nominated by a party to the labour agreement; and
 - (d) if the Minister requires the applicant to demonstrate that he or she has skills and experience that are suitable to perform the occupation—the applicant demonstrates that he or she has those skills and that experience in the manner specified by the Minister; and
 - (e) the Minister is satisfied that the requirements of the labour agreement have been met in relation to the application; and
 - (f) either:
 - (i) there is no adverse information known to Immigration about a party to the labour agreement or a person associated with the party to the labour agreement; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about a party to the labour agreement or a person associated with the party to the labour agreement.

Standard business sponsorship

- (4) The applicant meets the requirements of this subclause if:
- (a) each of the following applies:
 - (i) a nomination of an occupation in relation to the applicant has been approved under section 140GB of the Act;

- (ii) the nomination was made by a person who was a standard business sponsor at the time the nomination was approved;
- (iii) the approval of the nomination has not ceased as provided for in regulation 2.75; and
- (aa) the nominated occupation is specified in an instrument in writing for paragraph 2.72(10)(a) or (aa) that is in effect; and
- (ba) either:
 - (i) the nominated occupation is specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) each of the following applies:
 - (A) the applicant is employed to work in the nominated occupation;
 - (B) if the person who made the approved nomination met paragraph 2.59(d) or (e), or paragraph 2.68(e) or (f), in the person's most recent approval as a standard business sponsor, the applicant is employed to work in a position in the person's business or in a business of an associated entity of the person;
 - (C) if the person who made the approved nomination met paragraph 2.59(h), or paragraph 2.68(i), in the person's most recent approval as a standard business sponsor, the applicant is employed to work in a position in the person's business; and
- (d) the Minister is satisfied that:
 - (i) the applicant's intention to perform the occupation is genuine; and
 - (ii) the position associated with the nominated occupation is genuine; and
- (da) the applicant has the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation; and
- (e) if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the

Clause 457.223

occupation—the applicant demonstrates that he or she has those skills in the manner specified by the Minister; and

(ea) if:

- (i) the applicant would be required to hold a licence, registration or membership that is mandatory to perform the occupation nominated in relation to the applicant; and
- (ii) in order to obtain the licence, registration or membership, the applicant would need to demonstrate that the applicant has undertaken a language test specified by the Minister under subparagraph 457.223(4)(eb)(iv) of Schedule 2 and achieved a score that is better than the score specified by the Minister under subparagraph 457.223(4)(eb)(v) of Schedule 2;

the applicant has proficiency in English of at least the standard required for the grant (however described) of the licence, registration or membership; and

(eb) if:

- (i) the applicant is not an exempt applicant; and
- (ii) subclause (6) does not apply to the applicant; and
- (iii) at least 1 of subparagraphs (ea)(i) and (ii) does not apply;

the applicant:

- (iv) has undertaken a language test specified by the Minister in a legislative instrument for this subparagraph; and
- (v) achieved within the period specified by the Minister in the instrument, in a single attempt at the test, the score specified by the Minister in the instrument; and

(ec) if the Minister requires the applicant to demonstrate his or her English language proficiency—the applicant demonstrates his or her English language proficiency in the manner specified by the Minister; and

(f) either:

- (i) there is no adverse information known to Immigration about the person who made the approved nomination

- mentioned in paragraph (a) or a person associated with that person; or
- (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.
- (6) This subclause applies to an applicant if:
- (a) the base rate of pay for the applicant, under the terms and conditions of employment about which the Minister was last satisfied for paragraph 2.72(10)(c), is at least the level of salary worked out in the way specified by the Minister in an instrument in writing for this paragraph; and
- (b) the Minister considers that granting a Subclass 457 visa to the applicant would be in the interests of Australia.
- (11) In subclause (4):

exempt applicant means an applicant who is in a class of applicants specified by the Minister in an instrument in writing for this subclause.

457.223B

The Minister is satisfied that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

457.223C

If the nominated occupation is a medical practitioner, the applicant's qualifications are recognised by the relevant authority in Australia for the registration of medical practitioners as entitling the applicant to practise as a medical practitioner.

457.224

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4006A, 4010, 4013, 4014, 4020 and 4021.

Clause 457.225

- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

457.225

The applicant satisfies special return criteria 5001, 5002 and 5010.

457.3—Secondary criteria

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

457.32—Criteria to be satisfied at time of decision

457.321

The applicant is a member of the family unit of a person (the primary applicant) who, having satisfied the primary criteria, is the holder of a Subclass 457 visa.

457.323

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.

457.324

- (1) The applicant is included in any nomination that is required in respect of the primary applicant.
- (2) If the applicant is not included in any nomination that is required in respect of the primary applicant:
- (a) the standard business sponsor who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant

- may be a secondary sponsored person in relation to the standard business sponsor; or
- (b) the former standard business sponsor who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to the former standard business sponsor; or
 - (c) a party to the labour agreement who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to that party; or
 - (d) a former party to the labour agreement who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to that former party.

457.324B

Either:

- (a) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph 457.223(2)(b) or 457.223(4)(a); or
- (b) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph 457.223(2)(b) or 457.223(4)(a), or a person associated with that person.

Clause 457.324D

457.324D

Except for an applicant who seeks to satisfy the secondary criteria on the basis of being a member of the family unit of the primary applicant who has met the requirements of subclause 457.223(8), as in force immediately before 23 March 2013,, or subclause 457.223(9) as in force immediately before 24 November 2012, the Minister is satisfied that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

457.325

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4013, 4014, 4020 and 4021; and
- (b) satisfies public interest criterion 4019, if:
 - (i) the applicant had turned 18 at the time of application; and
 - (ii) the applicant did not make an application with a primary applicant who seeks to meet the requirements of subclause 457.223(9) as in force immediately before 24 November 2012; and
- (d) unless the applicant is a member of the family unit of a primary applicant who meets the requirements of subclause 457.223(9) as in force immediately before 24 November 2012—satisfies public interest criterion 4006A.

457.326

The applicant satisfies special return criteria 5001, 5002 and 5010.

457.328

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

457.4—Circumstances applicable to grant

457.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

457.5—When visa is in effect

457.511

A temporary visa permitting the holder:

- (a) in the case of a holder who is in Australia at the time of grant—to remain in Australia for a period of not more than 4 years from the date of grant; and
- (b) in the case of a holder who is outside Australia at the time of grant—to remain in Australia for a period of not more than 4 years from the date of entry that is specified by the Minister; and
- (ca) in the case of a holder whose visa was granted on the basis that the holder met:
 - (i) the requirements of subclause 457.223(2); or
 - (ii) the secondary criteria for the grant of the visa as a member of the family unit of a person who met the requirements of subclause 457.223(2);to remain in Australia until:
 - (iii) the end of the period specified for the visa in the labour agreement mentioned in paragraph 457.223(2); or
 - (iv) if no period is specified in the labour agreement—the date on which the labour agreement ceases; and
- (d) in the case of a holder:
 - (i) to whom paragraph (a), (b) or (ca) would apply; and
 - (ii) whose visa was granted on the basis that he or she was a member of the family unit of the holder of a visa in the circumstances described in subregulation 1.12(10);to remain in Australia until the earlier of:

Clause 457.611

- (iii) the end of the period in paragraph (a) or (b) that would have applied to the holder; and
- (iv) the end of the day before the holder's 21st birthday; and
- (f) in any case—to travel to, and enter, Australia on multiple occasions before the end of the relevant period.

457.6—Conditions

457.611

- (1) For an applicant other than an applicant who seeks to satisfy the secondary criteria on the basis of being a member of the family unit of the primary applicant who has met the requirements of:
 - (a) subclause 457.223(8), as in force immediately before 23 March 2013; or
 - (b) subclause 457.223(9), as in force immediately before 24 November 2012;condition 8501.
- (2) If the applicant satisfies the primary criteria, condition 8107 must be imposed.
- (3) Any 1 or more of conditions 8303, 8502, 8516, 8522, 8525 and 8526 may be imposed.

Subclass 461—New Zealand Citizen Family Relationship (Temporary)

461.1—Interpretation

Note: There are no interpretation provisions specific to this Part.

461.2—Primary criteria

Note: All applicants must meet the primary criteria.

461.21—Criteria to be satisfied at time of application

461.211

The applicant is not a New Zealand citizen.

461.212

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of:
 - (a) a person who is in Australia as the holder of a Subclass 444 (Special Category) visa; or
 - (b) a person who:
 - (i) is outside Australia; and
 - (ii) will be accompanying the applicant to Australia; and
 - (iii) will, on entry, be the holder of a special category visa.
- (3) An applicant meets the requirements of this subclause if the applicant:
 - (a) either:
 - (i) is in Australia as the holder of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa; or

Clause 461.212

- (ii) is not the holder of a substantive visa and the last substantive visa held by the applicant was a Subclass 461 visa; and
 - (b) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
 - (c) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).
- (4) An applicant meets the requirements of this subclause if the applicant:
 - (a) is outside Australia; and
 - (b) either:
 - (i) the applicant was lawfully present in Australia as the holder of a Subclass 461 visa 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; or
 - (ii) 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 immediately before the application for the visa, unless there are compelling reasons for the absence; and
 - (c) on last departure from Australia was a holder of a Subclass 461 visa; and
 - (d) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
 - (e) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).

461.213

If the application is made in Australia:

- (a) at the time of application, the applicant held a substantive temporary visa other than:
 - (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
- (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.

461.22—Criteria to be satisfied at time of decision

461.221

The applicant continues to satisfy the criterion in subclause 461.212(1).

461.222

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

461.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

Clause 461.224

461.224

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

461.225

If the application is made 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.

461.226

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

461.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

461.4—Circumstances applicable to grant

461.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

461.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

461.5—When visa is in effect

461.511

Temporary visa permitting the holder to travel to, and enter and remain in, Australia for a period of 5 years from the date of grant.

461.6—Conditions

461.611

Either or both of conditions 8303 and 8501 may be imposed.

Subclass 462—Work and Holiday

462.1—Interpretation

Note: There are no interpretation provisions specific to this Part. *Foreign Affairs recipient* and *Foreign Affairs student* are defined in regulation 1.03.

462.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

462.21—Criteria to be satisfied at time of application

462.211

If the applicant:

- (a) does not hold a Subclass 462 (Work and Holiday) visa; and
- (b) is not a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A(3)(b)(iii) of Schedule 1;

the applicant satisfies the criteria in clauses 462.212, 462.213, 462.215, 462.216 and 462.217.

462.211A

If:

- (a) the applicant holds a Subclass 462 (Work and Holiday) visa;
or
- (b) the applicant:
 - (i) does not hold a Subclass 462 (Work and Holiday) visa;
and
 - (ii) is a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A(3)(b)(iii) of Schedule 1;

the applicant satisfies the criteria in clause 462.212 and clauses 462.214 to 462.217.

462.212

The applicant is at least 18 but has not turned 31.

462.213

- (1) The applicant has provided with the application a letter:
 - (a) from the government of a foreign country with which the Australian Government has an arrangement mentioned in clause 462.216; and
 - (b) that includes a statement to the effect that the government of the foreign country has agreed to the applicant's stay in Australia under the arrangement.
- (2) The applicant holds a valid passport issued by the foreign country mentioned in subclause (1).

462.214

The applicant holds a valid passport issued by a foreign country specified in an instrument in writing made under paragraph 1224A(3)(a) of Schedule 1.

462.215

The Minister is satisfied that the applicant has at least functional English.

Note: *functional English* is defined in subsection 5(2) of the Act.

462.216

The Minister is satisfied that the application meets the requirements of an arrangement between the Australian Government and the government of a foreign country specified in an instrument in writing made under paragraph 1224A(3)(a) of Schedule 1.

Clause 462.217

462.217

The Minister is satisfied that the applicant:

- (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
- (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and
 - (ii) personal support for the purposes of a working holiday; and
- (c) will not be accompanied by dependent children during the applicant's stay in Australia unless the applicant is a member of a class of persons specified by the Minister in an instrument in writing for this paragraph.

462.22—Criteria to be satisfied at time of decision

462.221

The applicant:

- (a) continues to satisfy the criteria in clauses 462.215, 462.216 and 462.217; and
- (aa) continues to hold the passport mentioned in paragraph 1224A(3)(a) of Schedule 1, or a valid replacement passport issued by the country concerned; and
- (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4019 and 4020; and
- (c) is the holder of an educational qualification specified in an instrument in writing for this paragraph, in relation to the foreign country that issued the passport mentioned in paragraph (aa); and
- (e) is not a Foreign Affairs student or a Foreign Affairs recipient.

462.222

If the applicant:

- (a) was outside Australia at the time of application; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.

462.223

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

462.3—Secondary criteria

Note: All applicants must meet the primary criteria.

462.4—Circumstances applicable to grant

462.411

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

462.412

If the applicant is in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

462.5—When visa is in effect

462.511

If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:

- (a) to travel to and enter Australia within 12 months after the date of the grant of the visa; and

Clause 462.512

- (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

462.512

If the applicant is in Australia at the time of grant—temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant.

462.6—Conditions

462.611

Conditions 8547 and 8548.

462.612

Any 1 or more of conditions 8303, 8501, 8503, 8516 and 8540 may be imposed, unless an application is decided by the use of a computer program in accordance with an arrangement under section 495A of the Act.

Subclass 476—Skilled—Recognised Graduate

476.1—Interpretation

476.111

In this Part:

completed, in relation to a degree, means having met the academic requirements for the award of the degree.

476.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

476.21—Criteria to be satisfied at time of application

476.211

The applicant:

- (a) has not previously held a Subclass 476 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 (Temporary Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

476.212

The applicant has completed a course:

- (a) in the period of 24 months ending immediately before the day on which the application is made; and
- (b) at an institution specified by the Minister in an instrument in writing for this paragraph;

Clause 476.213

for the award of a degree or higher qualification in a discipline specified in an instrument in writing for this clause.

476.213

The application is accompanied by evidence that:

- (a) the applicant:
 - (i) has undertaken a language test specified by the Minister in a legislative instrument made for this paragraph; and
 - (ii) has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument; or
- (b) the applicant holds a passport of a type specified by the Minister in a legislative instrument made for this paragraph.

476.22—Criteria to be satisfied at time of decision

476.222

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.

476.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

476.224

Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 476 visa, is a person who:

- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and
- (da) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (e) if the person has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

476.225

If a person (the additional applicant):

- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.

476.226

Grant of the visa would not result in either:

- (a) the number of Subclass 476 visas granted in a financial year exceeding the maximum number of Subclass 476 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 476) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

476.3—Secondary criteria

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

Clause 476.311

476.31—Criteria to be satisfied at time of application

476.311

The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 476.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 476 visa.

476.32—Criteria to be satisfied at time of decision

476.321

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 476 visa.

476.322

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.

476.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

476.324

If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

476.4—Circumstances applicable to grant

476.411

- (1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.
- (2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.

476.412

In any other case, an applicant may be in or 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.

476.5—When visa is in effect

476.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

476.6—Conditions

476.611

If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 476 Skilled—Recognised Graduate

Clause 476.611

- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
- (c) condition 8515 may be imposed.

Subclass 485—Temporary Graduate

485.1—Interpretation

485.111

In this Part:

degree has the same meaning as in subregulation 2.26AC(6).

diploma has the same meaning as in subregulation 2.26AC(6).

trade qualification has the same meaning as in subregulation 2.26AC(6).

Note 1: Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 3: For *registered course*, *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

485.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 485 visa include criteria set out in streams.

If an applicant applies for a Subclass 485 visa in the Graduate Work stream, the criteria in Subdivisions 485.21 and 485.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 485 visa in the Post-Study Work stream, the criteria in Subdivisions 485.21 and 485.23 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, unless otherwise stated.

485.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa.

Clause 485.211

485.211

The applicant:

- (a) has not previously held a Subclass 476 (Skilled — Recognised Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

485.212

The application was accompanied by evidence that:

- (a) the applicant:
 - (i) has undertaken a language test specified by the Minister in a legislative instrument made for this paragraph; and
 - (ii) has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument; or
- (b) the applicant holds a passport of a type specified by the Minister in a legislative instrument made for this paragraph.

485.213

When the application was made, it was accompanied by evidence that:

- (a) the applicant; and
- (b) each person included in the application who is at least 16; had applied for an Australian Federal Police check during the 12 months immediately before the day the application is made.

485.215

- (1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements in Australia for health insurance.
- (2) The applicant has had adequate arrangements in Australia for health insurance since the time the application was made.

485.216

- (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 485 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 485 visa; and
 - (b) had turned 18 at the time of application;satisfies public interest criteria 4019.
- (5) Each member of the family unit of the applicant who:
 - (a) is an applicant for a Subclass 485 visa; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;satisfies public interest criteria 4015 and 4016.

485.217

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who:
 - (a) is an applicant for a Subclass 485 visa; and

Clause 485.218

(b) has previously been in Australia;
satisfies special return criteria 5001, 5002 and 5010.

485.218

Grant of the visa would not result in either:

- (a) the number of Subclass 485 visas granted in a financial year exceeding the maximum number of Subclass 485 visas specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 485) granted in a financial year exceeding the maximum number of visas of those classes, specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

485.22—Criteria for Graduate Work stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 485 visa in the Graduate Work stream.

485.221

The applicant satisfied the Australian study requirement in the period of 6 months immediately before the day the application was made.

485.222

Each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

485.223

When the application was made, it was accompanied by evidence that the applicant had applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

485.224

- (1) The skills of the applicant for the applicant's nominated skilled occupation have been assessed, during the last 3 years, by a relevant assessing authority as suitable for that occupation.
- (1A) If the assessment is expressed to be valid for a particular period, that period has not ended.
- (2) If the applicant's skills were assessed 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.

485.23—Criteria for Post-Study Work stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa in the Post-Study Work stream.

485.231

- (1) The applicant holds a qualification or qualifications of a kind specified by the Minister in an instrument in writing for this subclause.
- (2) Each qualification was conferred or awarded by an educational institution specified by the Minister in an instrument in writing for this subclause.
- (3) The applicant's study for the qualification or qualifications satisfied the Australian study requirement in the period of 6 months ending immediately before the day the application was made.

485.3—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.

Clause 485.311

485.31—Criteria

485.311

The applicant:

- (a) is a member of the family unit of a person who holds a Subclass 485 visa granted on the basis of satisfying the primary criteria for the grant of the visa, and made a combined application with that person; or
- (b) is a member of the family unit of a person who holds a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 485 visa.

485.312

- (1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements in Australia for health insurance.
- (2) The applicant has had adequate arrangements in Australia for health insurance since the time the application was made.

485.313

- (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.

485.314

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

485.4—Circumstances applicable to grant

485.411

- (1) The applicant who satisfies the primary criteria for the grant of the visa must be in Australia when the visa is granted.
- (2) Each applicant who made a combined application with the applicant who satisfies the primary criteria for the grant of the visa must be in Australia when the visa is granted.
- (3) In any other case, the applicant may be in or outside Australia when the visa is granted.

485.5—When visa is in effect

485.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

485.6—Conditions

485.611

Condition 8501 must be imposed.

485.612

If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

Subclass 488—Superyacht Crew

488.1—Interpretation

Note: *Member of the crew* and *superyacht* are defined in regulation 1.03. Regulation 1.15G is also relevant for the purposes of the definition of *superyacht*. There are no interpretation provisions specific to this Part.

488.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

488.21—Criteria to be satisfied at time of application

488.211

The applicant has turned 18.

488.212

The applicant is a member of the crew of a superyacht.

488.213

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.

488.22—Criteria to be satisfied at time of decision

488.221

The applicant continues to satisfy the criteria in clauses 488.212 and 488.213.

488.222

The Minister is satisfied that:

- (a) a superyacht crew sponsor has agreed to be the superyacht crew sponsor in relation to the applicant; and
- (b) the superyacht crew sponsor is not barred from sponsoring the applicant under paragraph 140M(1)(c) of the Act; and
- (c) either:
 - (i) there is no adverse information known to Immigration about the superyacht crew sponsor mentioned in paragraph (a) or a person associated with that superyacht crew sponsor; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the superyacht crew sponsor mentioned in paragraph (a) or a person associated with that superyacht crew sponsor.

488.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

488.224

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

488.3—Secondary criteria: Nil

Note: All applicants must satisfy the primary criteria.

488.4—Circumstances applicable to grant

488.411

The applicant may be in or outside Australia when the visa is granted.

Clause 488.511

488.5—When visa is in effect

488.511

If the visa was granted to an applicant outside Australia—
temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.

488.512

If the visa was granted to an applicant in Australia—temporary
visa permitting the holder:

- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose;
and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

488.6—Conditions

488.611

Conditions 8107 and 8114.

Subclass 489—Skilled—Regional (Provisional)

489.1—Interpretation

- Note 1: For *designated area*, *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.

489.2—Primary criteria

- Note: The primary criteria for the grant of a Subclass 489 visa include criteria set out in streams.
- If an applicant applies for a Subclass 489 visa in the First Provisional Visa stream, the criteria in Subdivisions 489.21 and 489.22 are the primary criteria for the grant of the visa.
- If an applicant applies for a Subclass 489 visa in the Second Provisional Visa stream, the criteria in Subdivisions 489.21 and 489.23 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 Skilled—Independent Regional (Class UX) visa;
 - a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
 - a Subclass 475 (Skilled—Regional Sponsored) visa;
 - a Subclass 487 (Skilled—Regional Sponsored) 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.

489.21—Common criteria

- Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 489 visa.

Clause 489.211

489.211

- (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 489 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.
- (4) Each member of the family unit of the primary applicant who:
 - (a) is an applicant for a Subclass 489 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 489 visa; and
 - (b) has not turned 18;satisfies public interest criteria 4015 and 4016.
- (6) Each member of the family unit of the primary applicant who is not an applicant for a Subclass 489 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

489.212

- (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 489 visa satisfies special return criteria 5001, 5002 and 5010.

489.22—Criteria for First Provisional Visa stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 489 visa in the First Provisional Visa stream.

489.221

The applicant was invited, in writing, by the Minister to apply for the visa.

489.222

- (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.

489.223

At the time of invitation to apply for the visa, the applicant had competent English.

489.224

- (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.

Clause 489.225

- (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.

489.225

- (1) The requirements in subclause (2) or (3) are met.
- (2) The nominating State or Territory government agency has not withdrawn the nomination.
- (3) The Minister has accepted the sponsorship of the applicant by a person in the following circumstances:
- (a) the person has turned 18; and
 - (b) the person is an Australian citizen, Australian permanent resident or eligible New Zealand citizen;
 - (c) the person is usually resident in a designated area of Australia;
 - (d) the person is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is an applicant for a Subclass 489 visa), as:
 - (i) a parent; or
 - (ii) a child or step-child; or
 - (iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or
 - (iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle;

- (v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or
- (vi) a grandparent; or
- (vii) a first cousin;
- (e) each member of the family unit of the applicant who is an applicant for a Subclass 489 visa is sponsored by that person.

489.226

- (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 489 visa satisfies public interest criterion 4005.
- (3) Each member of the family unit of the applicant who is not an applicant for a Subclass 489 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

489.23—Criteria for Second Provisional Visa stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 489 visa in the Second Provisional Visa stream.

489.231

- (1) If the applicant has previously held one of the following visas:
 - (a) a Skilled—Independent Regional (Provisional) (Class UX) visa;
 - (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
 - (c) a Subclass 475 (Skilled—Regional Sponsored) visa;
 - (d) a Subclass 487 (Skilled—Regional Sponsored) visa;the applicant has substantially complied with the conditions to which the visa was subject.

Clause 489.232

- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 489 visa, and who has previously held a visa mentioned in subclause (1), has substantially complied with the conditions to which the visa mentioned in subclause (1) was subject.

489.232

- (1) The applicant satisfies public interest criterion 4007.
- (2) Each person who is a member of the family unit of the applicant, and is an applicant for a Subclass 489 visa, satisfies public interest criterion 4007.
- (3) Each member of the family unit of the applicant who is not an applicant for a Subclass 489 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

489.3—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 Skilled—Independent Regional (Provisional) (Class UX) visa;
 - a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
 - a Subclass 475 (Skilled—Regional Sponsored) visa;
 - a Subclass 487 (Skilled—Regional Sponsored) visa.

All criteria must be satisfied at the time a decision is made on the application.

489.31—Criteria

489.311

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 Skilled—Independent Regional (Provisional) (Class UX) visa;
- (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
- (c) a Subclass 475 (Skilled—Regional Sponsored) visa;
- (d) a Subclass 487 (Skilled—Regional Sponsored) visa;
- (e) a Subclass 489 (Skilled—Regional (Provisional)) visa.

489.312

If the applicant previously held:

- (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled—Regional Sponsored) visa;
- the applicant has substantially complied with the conditions of that visa.

489.313

- (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.

Clause 489.314

- (4) If the primary applicant holds a Subclass 489 visa in the Second Provisional Visa stream, the applicant satisfies public interest criterion 4007.
- (5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

489.314

The applicant satisfies special return criteria 5001, 5002 and 5010.

489.4—Circumstances applicable to grant

489.411

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.

489.5—When visa is in effect

489.511

If the applicant satisfied the primary criteria for the grant of a Subclass 489 visa in the First Provisional Visa stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 4 years from the date of grant.

489.512

If the applicant satisfied the primary criteria for the grant of a Subclass 489 visa in the Second Provisional Visa stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 4 years after the date of grant of the provisional visa the applicant held at the time of application.

489.513

If the applicant is a member of the family unit of a person who holds a Subclass 489 visa in the First Provisional Visa stream or the Second Provisional Visa stream, 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.

489.514

If the applicant is a member of the family unit of a person who holds:

- (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled—Regional Sponsored) 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 for the grant of the visa mentioned in paragraph (a), (b), (c) or (d).

489.6—Conditions

489.611

If the applicant who satisfied the primary criteria for the grant of the visa was nominated by a State or Territory government agency, condition 8539 must be imposed.

489.612

If the applicant who satisfied the primary criteria for the grant of the visa was sponsored by a person, condition 8549 must be imposed.

Clause 489.613

489.613

- (1) If condition 8539 was imposed on the visa held at the time of application by the applicant who satisfied the primary criteria for the grant of the visa in the Second Provisional Visa stream, condition 8539 must be imposed.
- (2) If:
 - (a) an applicant is granted a Subclass 489 visa on the basis of satisfying the secondary criteria; and
 - (b) the applicant who satisfied the primary criteria also holds another General Skilled Migration visa on which condition 8539 has been imposed;condition 8539 must be imposed.

489.614

- (1) If condition 8549 was imposed on the visa held at the time of application by the applicant who satisfied the primary criteria for the grant of the visa in the Second Provisional Visa stream, condition 8549 must be imposed.
- (2) If:
 - (a) an applicant is granted a Subclass 489 visa on the basis of satisfying the secondary criteria; and
 - (b) the applicant who satisfied the primary criteria also holds another General Skilled Migration visa on which condition 8549 has been imposed;condition 8549 must be imposed.

489.615

If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a 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 570—Independent ELICOS Sector

570.1—Interpretation

570.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note: To work out whether a course of study is a principal course, see subregulation 1.40(2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For *foreign country*, see section 2B of the *Acts Interpretation Act 1901*.

570.2—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.

570.21—Criteria to be satisfied at time of application

570.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

Clause 570.211

- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));

- (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant:
 - (i) is the holder of a Subclass 560, 562 or 570 visa that is subject to condition 8101; or
 - (ii) is the holder of a Subclass 572 visa:

Clause 570.211

- (A) granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (B) that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced an ELICOS.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 560, 562 or 570 visa; or
 - (ii) is the holder of a Subclass 572 visa granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the ELICOS for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 571, 572, 573, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the course, or courses, of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

570.22—Criteria to be satisfied at time of decision

570.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 570.211(4) or (5), the applicant satisfies the criteria in clauses 570.222 to 570.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 570.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 570.211(4)(a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.224(ba); or
 - (ii) the applicant satisfies the criteria in clauses 570.223 to 570.234.
- (3) If, at the time of application, the applicant met the requirements of subclause 570.211(5):
 - (a) the applicant continues to meet the requirements of paragraphs 570.211(5)(a) and (d); and
 - (b) either:
 - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
 - (ii) the applicant satisfies the criteria in clauses 570.222 to 570.234.

570.222

- (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of

Clause 570.223

enrolment relating to the applicant undertaking a full-time ELICOS (an acceptable ELICOS):

- (a) that has been specified in a legislative instrument made by the Minister under regulation 1.40A; and
 - (b) the provider of which is not a suspended education provider.
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable ELICOS.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable ELICOS.

570.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 570 and the assessment level to which the applicant is subject, in relation to:
 - (i) the applicant's English language proficiency for the purposes of each ELICOS that the applicant proposes to undertake; and

- (ii) the financial capacity of the applicant to undertake each of those ELICOS without contravening any condition of the visa relating to work; and
- (iii) other requirements under Schedule 5A; and
- (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
- (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

570.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

570.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

570.227

If:

- (a) the application was made in Australia; and

Clause 570.227

- (b) subject to clause 570.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 570.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);
 - (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));

- (B) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 570 visa.

570.227A

For paragraph 570.227(b), the highest assessment level does not include assessment level 1.

570.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

570.229

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

Clause 570.230

570.230

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking an ELICOS.

570.230A

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.

570.231

The applicant holds a passport of a kind specified in a legislative instrument made by the Minister under regulation 1.40.

570.232

The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:

- (a) a principal course; and
- (b) of a type that was specified for Subclass 570 visas by the Minister in a legislative instrument:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

570.233

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

570.234

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

570.3—Secondary criteria

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

570.31—Criteria to be satisfied at time of application

570.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 570.21.

570.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
 - (a) a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);

Clause 570.312

- (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) a special purpose visa; or
 - (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 570.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.

- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 570 or 572 visa that is subject to condition 8101; and
 - (b) for an applicant who is the holder of a Subclass 560 or 570 visa, the applicant:
 - (i) is a member of the family unit of a person (the **primary person**) who holds a Subclass 560, 562 or 570 visa; and
 - (ii) gives to the Minister evidence that the primary person has commenced an ELICOS; and
 - (c) for an applicant who is the holder of a Subclass 572 visa:
 - (i) the visa was granted on the basis that the applicant was a member of the family unit of a person (the **primary person**) who was the holder of a student visa granted on the basis that the primary person proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (ii) the applicant gives to the Minister evidence that the primary person has commenced an ELICOS; and
 - (d) the application was made on form 157P or 157P (Internet).
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person:
 - (i) who is the holder of a Subclass 560, 562 or 570 visa, having satisfied the primary criteria for that visa; or
 - (ii) who is the holder of a Subclass 572 visa granted on the basis that the person proposed to commence, or had commenced, an ELICOS as a principal course.

570.314

- (1) If the applicant claims to be a member of the family unit of a person (the **primary person**) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).
- (2) The applicant meets this subclause if:
-

Clause 570.315

- (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
- (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

570.315

The applicant is not a secondary exchange student.

570.32—Criteria to be satisfied at time of decision

570.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 570.312(4), the applicant satisfies the criteria in clauses 570.322 to 570.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 570.312(4):
 - (a) the applicant continues to meet the requirements of paragraphs 570.312(4)(a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322;

- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.323(b); or
- (ii) the applicant satisfies the criteria in clauses 570.322 to 570.332.

570.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
Note: Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 570.21 and 570.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

Clause 570.323

- (A) the Commonwealth or the government of a State or Territory; or
- (B) the government of a foreign country; or
- (C) a multilateral agency;
- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

570.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

570.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

570.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

570.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and

- (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
- (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

570.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

570.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 570.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

Clause 570.329

570.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 570.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

570.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

570.331

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

570.332

(1) If the applicant:

- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (2) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

- (1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.

- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or

Clause 570.411

- (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

570.4—Circumstances applicable to grant

570.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

570.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

570.5—When visa is in effect

570.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

570.6—Conditions

570.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and
- (e) subject to clause 570.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

570.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

570.613

- (1) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies;condition 8534.
- (2) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:

Clause 570.614

- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104(1);
 - (ii) school costs, within the meaning of subclause 5A104(2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3)(a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A208(1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 570 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
- funds from an acceptable source*** has the meaning given by subclause 5A208(2).

570.614

- (1) If the applicant (the primary applicant) is subject to assessment level 1 or 2 and is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

570.615

- (1) If the applicant (the primary applicant) is seeking to undertake an ELICOS that is, or ELICOS that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

570.616

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
 - (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivision 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 570 Independent ELICOS Sector

Clause 570.617

570.617

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 571—Schools Sector

571.1—Interpretation

571.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means:

- (a) in relation to a secondary exchange student—a full-time course of study under a secondary school student exchange program approved by the State or Territory education authority that administers the program; or
- (b) in any other case—a full-time registered course of study.

Note 1: ***secondary exchange student*** is defined in regulation 1.03.

Note 2: To work out whether a course of study is a principal course, see subregulation 1.40(2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For ***foreign country***, see section 2B of the *Acts Interpretation Act 1901*.

571.2—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.

571.21—Criteria to be satisfied at time of application

571.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or

- (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
-

Clause 571.221

- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 562 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 570, 572, 573, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) except if the applicant is a secondary exchange student, the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

571.22—Criteria to be satisfied at time of decision

571.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 571.211(4), the applicant satisfies the criteria in clauses 571.222 to 571.236.
- (2) If, at the time of application, the applicant met the requirements of subclause 571.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 571.211(4)(a); and
 - (b) either:
 - (i) both of the following:

- (A) the Minister has no reason to believe that the applicant is not a genuine student;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.224(ba); or
- (ii) the applicant satisfies the criteria in clauses 571.223 to 571.236.

571.222

- (1) Except if:
 - (a) subclause (2) applies; or
 - (b) the application was made on form 157E; or
 - (c) the applicant is a secondary exchange student;the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (***an acceptable course***).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- (4) If the applicant is a secondary exchange student, the applicant is enrolled in an acceptable course.

571.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and

Clause 571.224

- (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

571.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

571.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

571.227

If:

- (a) the application was made in Australia; and
- (b) subject to clause 571.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 571.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);

Clause 571.227A

- (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 571 visa.

571.227A

For paragraph 571.227(b), the highest assessment level does not include assessment level 1.

571.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

571.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

571.229A

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.

571.230

The applicant holds a passport of a kind specified in a legislative instrument made by the Minister under regulation 1.40.

571.231

If the applicant is subject to assessment level 3, the Minister is satisfied that the applicant is of an age that is appropriate to the entry level for the applicant's principal course.

571.232

The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:

Clause 571.233

- (a) a principal course; and
- (b) of a type that was specified for Subclass 571 visas by the Minister in a legislative instrument:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

571.233

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

571.234

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

571.235

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

571.236

If the applicant is not a secondary exchange student, the year or level of school study that the applicant intends to undertake must not be a year or level that is more than 18 months below a year or level that the applicant has previously undertaken in Australia or another country.

571.3—Secondary criteria

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

571.31—Criteria to be satisfied at time of application

571.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 571.21.

571.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);

Clause 571.312

- (xviii) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 571.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 571 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 571 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and

- (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 571 student visa, having satisfied the primary criteria for that visa.

571.314

- (1) If the applicant claims to be a member of the family unit of a person (the *primary person*) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).
- (2) The applicant meets this subclause if:
 - (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
 - (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

571.32—Criteria to be satisfied at time of decision

571.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 571.312(4), the applicant satisfies the criteria in clauses 571.322 to 571.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 571.312(4):
 - (a) the applicant continues to meet the requirements of paragraphs 571.312(4)(a) and (c); and
 - (b) either:

Clause 571.322

- (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.323(b); or
- (ii) the applicant satisfies the criteria in clauses 571.322 to 571.332.

571.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
 - Note: Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or

- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 571.21 and 571.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

571.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

571.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

571.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

Clause 571.326

571.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

571.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

571.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 571.322; and

- (b) the period of stay proposed in the application is more than 3 months;
the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

571.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 571.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

571.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

571.331

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

571.332

- (1) If the applicant:
 - (a) is a member of the family unit of a person (the ***primary person***) to whom subclause (2) applies; and

Clause 571.332

- (b) was not included in the application for a student visa made by the primary person;
the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.
- (2) This subclause applies to a primary person who:
 - (a) is the holder of a Subclass 571 visa, granted on the basis of satisfying the primary criteria in Division 571.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.
- (3) If the applicant:
 - (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 571 visa, granted on the basis of satisfying the primary criteria in Division 571.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

571.4—Circumstances applicable to grant

571.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

571.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

571.5—When visa is in effect

571.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

Clause 571.611

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

571.6—Conditions

571.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and
- (e) subject to clause 571.612, any 1 or more of conditions 8303, 8523, 8534 and 8535 may be imposed.

571.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

571.613

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.

- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

571.614

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 572—Vocational Education and Training Sector

572.1—Interpretation

572.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note: To work out whether a course of study is a principal course, see subregulation 1.40(2).

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

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

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

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

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For ***foreign country***, see section 2B of the *Acts Interpretation Act 1901*.

572.112

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

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

572.2—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.

572.21—Criteria to be satisfied at time of application

572.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);

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- (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (iia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate—Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 572 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:

Clause 572.212

- (a) the applicant is the holder of a Subclass 570, 571, 573, 574, 575 or 576 visa; and
- (b) the application was made on form 157A or 157A (Internet); and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

572.212

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

572.22—Criteria to be satisfied at time of decision

572.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 572.211(4), the applicant satisfies the criteria in clauses 572.222 to 572.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 572.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 572.211(4)(a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.224(ba); or

- (ii) the applicant satisfies the criteria in clauses 572.223 to 572.234.

572.222

- (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (an acceptable course).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

572.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (1A) or (2).
- (1A) If the applicant is, and was, at the time of application, an eligible vocational education and training student who has a confirmation of enrolment in each course of study for which the applicant is an eligible vocational education and training student:

Clause 572.224

- (a) the applicant gives the Minister evidence that the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's eligible education provider; and
 - (ii) educational qualifications required by the eligible education provider; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each member (if any) of the applicant's family unit.
- (2) If subclause (1A) does not apply:
- (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

572.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

572.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

572.227

If:

- (a) the application was made in Australia; and
- (b) subject to clause 572.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 572.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);

Clause 572.227

- (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);
 - (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (BA) Subclass 485 (Temporary Graduate);
 - (C) Subclass 497 (Graduate—Skilled); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 572 visa.

572.227A

For paragraph 572.227(b), the highest assessment level does not include assessment level 1.

572.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

572.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

572.229A

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.

Clause 572.230

572.230

The applicant holds a passport of a kind specified in a legislative instrument made by the Minister under regulation 1.40.

572.231

If subclause 572.223(1A) does not apply:

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

572.232

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

572.233

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

572.234

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

572.3—Secondary criteria

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

572.31—Criteria to be satisfied at time of application

572.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 572.21.

572.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);

Clause 572.312

- (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (iia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 572.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560 or 572 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 572 visa; and

- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 572 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 572 student visa, having satisfied the primary criteria for that visa.

572.314

- (1) If the applicant claims to be a member of the family unit of a person (the **primary person**) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).
- (2) The applicant meets this subclause if:
 - (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
 - (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

572.315

The applicant is not a secondary exchange student.

Clause 572.321

572.32—Criteria to be satisfied at time of decision

572.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 572.312(4), the applicant satisfies the criteria in clauses 572.322 to 572.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 572.312(4):
 - (a) the applicant continues to meet the requirements of paragraphs 572.312(4)(a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.323(b); or
 - (ii) the applicant satisfies the criteria in clauses 572.322 to 572.332.

572.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note: Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 572.21 and 572.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ia) the primary person is an eligible vocational education and training student;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

Clause 572.323

572.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

572.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

572.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

572.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and

- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

572.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

572.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 572.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

572.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 572.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

Clause 572.330

572.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

572.331

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

572.332

(1) If the applicant:

- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

(1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.

(2) This subclause applies to a primary person who:

- (a) is the holder of a Subclass 572 visa, granted on the basis of satisfying the primary criteria in Division 572.2; and
- (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full

period, assessed for the primary person alone, were to be met by:

- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
- (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

(3) If the applicant:

- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) This subclause applies to a primary person who:

- (a) is the holder of a Subclass 572 visa, granted on the basis of satisfying the primary criteria in Division 572.2; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

Clause 572.411

572.4—Circumstances applicable to grant

572.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

572.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

572.5—When visa is in effect

572.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

572.6—Conditions

572.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and
- (e) subject to clause 572.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

572.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

572.613

- (1) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies;condition 8534.
- (2) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104(1);
 - (ii) school costs, within the meaning of subclause 5A104(2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient

Clause 572.614

to accumulate the level of funding being provided by that individual.

- (4) For paragraphs (3)(a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A408(1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 572 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A408(2).

572.614

- (1) If the applicant (the primary applicant) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

572.615

- (1) If the applicant (the primary applicant) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

572.616

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
 - (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

572.617

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 573—Higher Education Sector

573.1—Interpretation and preliminary

573.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note: To work out whether a course of study is a principal course, see subregulation 1.40(2).

educational business partner, in relation to an eligible education provider, means an education provider specified as an educational business partner in an instrument made under clause 573.112.

eligible education provider means an education provider specified as an eligible education provider in an instrument made under clause 573.112.

eligible higher degree student means an applicant for a Subclass 573 visa in relation to whom the following apply:

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

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For ***foreign country***, see section 2B of the *Acts Interpretation Act 1901*.

573.112

For this Part, the Minister may, by instrument in writing:

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

573.2—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.

573.21—Criteria to be satisfied at time of application

573.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);

Clause 573.211

- (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (iia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate—Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of:
 - (i) a Subclass 560, 562 or 573 visa that is subject to condition 8101; or
 - (ii) a Subclass 574 visa that is subject to condition 8101 and was granted on the basis that the applicant proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and

Clause 573.212

- (b) the application was made on form 157P or 157P (Internet);
and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet);
and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

573.212

If the applicant is an eligible higher degree student, the applicant must have a confirmation of enrolment in each course of study for which the applicant is an eligible higher degree student.

573.22—Criteria to be satisfied at time of decision

573.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 573.211(4), the applicant satisfies the criteria in clauses 573.222 to 573.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 573.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 573.211(4)(a); and

- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 73.224(ba); or
 - (ii) the applicant satisfies the criteria in clauses 573.223 to 573.234.

573.222

- (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (an acceptable course).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

573.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and

Clause 573.223

- (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (1A) or (2).
- (1A) If the applicant is, and was, at the time of application, an eligible higher degree student who has a confirmation of enrolment in each course of study for which the applicant is an eligible higher degree student:
 - (a) the applicant gives the Minister evidence that the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's eligible education provider; and
 - (ii) educational qualifications required by the eligible education provider; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each member (if any) of the applicant's family unit.
- (2) If subclause (1A) does not apply:
 - (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and

- (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

573.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

573.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

573.227

If:

- (a) the application was made in Australia; and
- (b) subject to clause 573.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 573.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);

Clause 573.227

- (E) Electronic Travel Authority (Class UD);
- (IA) Maritime Crew (Temporary) (Class ZM);
- (J) Medical Practitioner (Temporary) (Class UE);
- (K) Retirement (Temporary) (Class TQ);
- (LA) Superyacht Crew (Temporary) (Class UW);
- (N) Temporary Business Entry (Class UC);
- (NA) Subclass 400 (Temporary Work (Short Stay Activity));
- (NB) Tourist (Class TR);
- (NC) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ);
- (P) Temporary Work (Long Stay Activity) (Class GB);
- (Q) Training and Research (Class GC);
- (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
- (R) Temporary Work (Entertainment) (Class GE);
- (S) Special Program (Temporary) (Class TE);
- (T) Subclass 600 (Visitor); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (BA) Subclass 485 (Temporary Graduate);
 - (C) Subclass 497 (Graduate—Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and

(B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
the applicant establishes exceptional reasons for the grant of a Subclass 573 visa.

573.227A

For paragraph 573.227(b), the highest assessment level does not include assessment level 1.

573.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

573.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

Clause 573.229A

573.229A

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.

573.230

The applicant holds a passport of a kind specified in an instrument made under regulation 1.40.

573.231

If subclause 573.223(1A) does not apply:

- (a) the applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is a principal course; and
- (b) the principal course is of a type that was specified for Subclass 573 visas by the Minister in an instrument:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

573.232

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

573.233

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

573.234

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

573.3—Secondary criteria

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

573.31—Criteria to be satisfied at time of application

573.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 573.21.

573.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);

Clause 573.312

- (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (iia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 573.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.

- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 573 or 574 visa that:
 - (i) for a holder of a Subclass 574 visa—was granted on the basis that:
 - (A) the applicant was a member of the family unit of a person (the ***primary person***) who satisfied the primary criteria in Division 574.2; and
 - (B) the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (ii) for all holders—is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562, 573 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562, 573 or 574 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person (the ***primary person***) who:
 - (i) holds a Subclass 560, 562 or 573 visa, having satisfied the primary criteria for that visa; or
 - (ii) holds a Subclass 574 visa that was granted on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework.

573.314

- (1) If the applicant claims to be a member of the family unit of a person (the ***primary person***) who holds a student visa having
-

Clause 573.321

satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).

- (2) The applicant meets this subclause if:
 - (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
 - (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

573.32—Criteria to be satisfied at time of decision

573.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 573.312(4), the applicant satisfies the criteria in clauses 573.322 to 573.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 573.312 (4):
 - (a) the applicant continues to meet the requirements of paragraphs 573.312(4)(a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 573.323(b); or

- (ii) the applicant satisfies the criteria in clauses 573.322 to 573.332.

573.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
- (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
Note: Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 573.21 and 573.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ia) the primary person is an eligible higher degree student;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

Clause 573.323

- (A) the Commonwealth or the government of a State or Territory; or
- (B) the government of a foreign country; or
- (C) a multilateral agency;
- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

573.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

573.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

573.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

573.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and

- (ii) the applicant's immigration history; and
- (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
- (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

573.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

573.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 573.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

Clause 573.329

573.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 573.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

573.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

573.331

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

573.332

(1) If the applicant:

- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (2) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

- (1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.

(2) This subclause applies to a primary person who:

(a) is:

- (i) the holder of a Subclass 573 visa, granted on the basis of satisfying the primary criteria in Division 573.2; or
- (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and

(b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and

(c) was, at the time of the decision to grant the visa:

- (i) fully funded; or
- (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

(3) If the applicant:

- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

Clause 573.411

- (4) This subclause applies to a primary person who:
- (a) is:
 - (i) the holder of a Subclass 573 visa, granted on the basis of satisfying the primary criteria in Division 573.2; or
 - (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

573.4—Circumstances applicable to grant

573.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

573.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

573.5—When visa is in effect

573.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

573.6—Conditions

573.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 573.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

573.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

Clause 573.613

573.613

- (1) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies;condition 8534.
- (2) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104(1);
 - (ii) school costs, within the meaning of subclause 5A104(2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3)(a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A508(1).

Clause 573.614

- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 573 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
funds from an acceptable source has the meaning given by subclause 5A508(2).

573.614

- (1) If the applicant (the primary applicant) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

573.615

- (1) If the applicant (the primary applicant) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

573.616

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and

Clause 573.617

- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

573.617

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 574—Postgraduate Research Sector

574.1—Interpretation and preliminary

574.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note: To work out whether a course of study is a principal course, see subregulation 1.40 (2).

educational business partner, in relation to an eligible education provider, means an education provider specified as an educational business partner in an instrument made under clause 574.112.

eligible education provider means an education provider specified as an eligible education provider in an instrument made under clause 574.112.

eligible higher degree student means an applicant for a Subclass 574 visa in relation to whom the following apply:

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

Clause 574.112

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For *foreign country*, see section 2B of the *Acts Interpretation Act 1901*.

574.112

For this Part, the Minister may, by instrument in writing:

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

574.2—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.

574.21—Criteria to be satisfied at time of application

574.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);

- (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (iia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and

Clause 574.211

- (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate—Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 574 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:

- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 575 or 576 visa; and
- (b) the application was made on form 157A or 157A (Internet); and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

574.212

If the applicant is an eligible higher degree student, the applicant must have a confirmation of enrolment in each course of study for which the applicant is an eligible higher degree student.

574.22—Criteria to be satisfied at time of decision

574.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 574.211(4), the applicant satisfies the criteria in clauses 574.223 to 574.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 574.211 (4):
 - (a) the applicant continues to meet the requirements of paragraph 574.211(4)(a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.224(ba); or

Clause 574.222

- (ii) the applicant satisfies the criteria in clauses 574.223 to 574.234.

574.222

- (1) Except if subclause (2), (3) or (3A) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (an acceptable course).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 560 or 562 visa, the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis.
- (3A) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 574 visa (the **current visa**):
 - (a) the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis; and
 - (b) either:
 - (i) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for a continuous period of 6 months or less; or

- (ii) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for more than 6 months and there are exceptional circumstances justifying the grant of the visa.
- (4) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

574.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (1A) or subclause (2).
- (1A) If the applicant, and was, at the time of application, is an eligible higher degree student who has a confirmation of enrolment in each course of study for which the applicant is an eligible higher degree student:
 - (a) the applicant gives the Minister evidence that the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's eligible education provider; and
 - (ii) educational qualifications required by the eligible education provider; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

Clause 574.224

- (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each member (if any) of the applicant's family unit.
- (2) If subclause (1A) does not apply:
- (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

574.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

574.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

574.227

If:

- (a) the application was made in Australia; and
- (b) subject to clause 574.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 574.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);

Clause 574.227A

- (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (BA) Subclass 485 (Temporary Graduate);
 - (C) Subclass 497 (Graduate—Skilled); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 574 visa.

574.227A

For paragraph 574.227(b), the highest assessment level does not include assessment level 1.

574.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

574.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

574.229A

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.

574.230

The applicant holds a passport of a kind specified in an instrument made under regulation 1.40.

574.231

If subclause 574.223(1A) does not apply:

Clause 574.232

- (a) the applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is a principal course; and
- (b) the principal course is of a type that was specified for Subclass 574 visas by the Minister in an instrument:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

574.232

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

574.233

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

574.234

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

574.3—Secondary criteria

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

574.31—Criteria to be satisfied at time of application

574.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 574.21.

574.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);

Clause 574.312

- (xviii) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (ia) Subclass 485 (Temporary Graduate);
 - (iii) Subclass 497 (Graduate—Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 574.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 574 visa that is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 574 visa mentioned in paragraph (c) has commenced a course of study.

- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 574 student visa, having satisfied the primary criteria for that visa.

574.314

- (1) If the applicant claims to be a member of the family unit of a person (the *primary person*) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).
- (2) The applicant meets this subclause if:
- (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
- (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

574.32—Criteria to be satisfied at time of decision

574.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 574.312(4), the applicant satisfies the criteria in clauses 574.322 to 574.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 574.312(4):

Clause 574.322

- (a) the applicant continues to meet the requirements of paragraphs 574.312(4)(a) and (c); and
- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.323(b); or
 - (ii) the applicant satisfies the criteria in clauses 574.322 to 574.332.

574.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
Note: Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or

- (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 574.21 and 574.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ia) the primary person is an eligible higher degree student;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

574.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

574.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

Clause 574.325

574.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

574.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

574.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

574.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 574.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

574.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 574.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

574.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

574.331

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

Clause 574.332

574.332

- (1) If the applicant:
 - (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.
- (2) This subclause applies to a primary person who:
 - (a) is the holder of a Subclass 574 visa, granted on the basis of satisfying the primary criteria in Division 574.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph; or
 - (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.

- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 574 visa, granted on the basis of satisfying the primary criteria in Division 574.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph; or
 - (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.

574.4—Circumstances applicable to grant

574.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

Clause 574.412

574.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

574.5—When visa is in effect

574.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

574.6—Conditions

574.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 574.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

574.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

574.613

- (1) If the applicant:
-

- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies;
- condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);
- condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104(1);
 - (ii) school costs, within the meaning of subclause 5A104(2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3)(a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A608(1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 574 visa that is subject to condition 8534, condition 8534.
-

Clause 574.613A

- (6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A608(2).

574.613A

- (1) If the applicant (the primary applicant) is seeking to undertake a course of study that has been specified by the Minister in a legislative instrument made under subregulation 1.44(2) and the applicant did not provide evidence of English language proficiency otherwise required under clause 5A604 or 5A607 of Schedule 5A, condition 8534.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

574.614

- (1) If the applicant (the primary applicant) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.615

- (1) If the applicant (the primary applicant) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.616

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (e) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
 - (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

574.617

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 575—Non-Award Sector

575.1—Interpretation and preliminary

575.111

In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note 1: **non-award course** is defined in regulation 1.03.

Note 2: To work out whether a course of study is a principal course, see subregulation 1.40(2).

eligible education provider means an education provider specified as an eligible education provider in an instrument made under clause 575.112.

eligible non-award student means an applicant for a Subclass 575 visa in relation to whom the following apply:

- (a) the applicant is enrolled in a full-time course of study that is not leading to an award;
- (b) the course of study is not an ELICOS;
- (c) the course of study is provided by an eligible education provider;
- (d) the course of study is part of:
 - (i) a formal exchange program; or
 - (ii) a study abroad program.

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note: For **foreign country**, see section 2B of the *Acts Interpretation Act 1901*.

575.112

For this Part, the Minister may, by instrument in writing, specify an education provider as an eligible education provider.

575.2—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.

575.21—Criteria to be satisfied at time of application

575.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));

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- (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:

- (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 574 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

Clause 575.212

575.212

If the applicant is an eligible non-award student, the applicant must have a confirmation of enrolment in the course of study for which the applicant is an eligible non-award student.

575.22—Criteria to be satisfied at time of decision

575.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 575.211(4), the applicant satisfies the criteria in clauses 575.222 to 575.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 575.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 575.211(4)(a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.224(ba); or
 - (ii) the applicant satisfies the criteria in clauses 575.223 to 575.234.

575.222

- (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (an acceptable course).

- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

575.223

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (1A) or (2).
- (1A) If the applicant is and was, at the time of application an eligible non-award student who has a confirmation of enrolment in the course of study for which the applicant is an eligible non-award student:
 - (a) the applicant gives the Minister evidence that the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's eligible education provider; and
 - (ii) educational qualifications required by the eligible education provider; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

Clause 575.224

- (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each member (if any) of the applicant's family unit.
- (2) If subclause (1A) does not apply:
- (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
 - (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

575.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

575.225

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

575.227

If:

- (a) the application was made in Australia; and
- (b) subject to clause 575.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 575.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);

Clause 575.227A

- (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 575 visa.

575.227A

For paragraph 575.227(b), the highest assessment level does not include assessment level 1.

575.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

575.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a full-time non-award course.

575.229A

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.

575.230

The applicant holds a passport of a kind specified in a legislative instrument made by the Minister under regulation 1.40.

575.231

If subclause 575.223(1A) does not apply:

- (a) the applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is a principal course; and
- (b) the principal course is of a type that was specified for Subclass 575 visas by the Minister in an instrument:
 - (i) made under regulation 1.40A; and

Clause 575.232

(ii) in force at the time the application was made.

575.232

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

575.233

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

575.234

If the applicant is subject to assessment level 3, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 60 weeks.

575.3—Secondary criteria

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

575.31—Criteria to be satisfied at time of application

575.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 575.21.

575.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
 - (a) a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner, or a dependent relative, of a diplomatic or consular representative of a foreign country; or

Clause 575.314

- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 575.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 575 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 575 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 575 student visa, having satisfied the primary criteria for that visa.

575.314

- (1) If the applicant claims to be a member of the family unit of a person (the *primary person*) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).

- (2) The applicant meets this subclause if:
 - (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and
 - (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
 - (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

575.315

The applicant is not a secondary exchange student.

575.32—Criteria to be satisfied at time of decision

575.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 575.312(4), the applicant satisfies the criteria in clauses 575.322 to 575.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 575.312(4):
 - (a) the applicant continues to meet the requirements of paragraphs 575.312(4)(a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322;

Clause 575.322

- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.323(b); or
- (ii) the applicant satisfies the criteria in clauses 575.322 to 575.332.

575.322

The applicant is a member of the family unit of a person (the primary person):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
Note: Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 575.21 and 575.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ia) the primary person is an eligible non-award student;

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

575.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

575.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

575.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

Clause 575.326

575.326

The Minister is satisfied that:

- (aa) the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B—while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

575.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

575.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 575.322; and

- (b) the period of stay proposed in the application is more than 3 months;
the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

575.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 575.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

575.330

The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

575.331

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

575.332

- (1) If the applicant:
 - (a) is a member of the family unit of a person (the ***primary person***) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

Clause 575.332

the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

- (1A) However, if the primary person was subject to assessment level 4 or 5, the applicant must give evidence, in accordance with Schedule 5B, for assessment level 3.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 575 visa, granted on the basis of satisfying the primary criteria in Division 575.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) This subclause applies to a primary person who:

- (a) is the holder of a Subclass 575 visa, granted on the basis of satisfying the primary criteria in Division 575.2; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified in a legislative instrument made by the Minister for this paragraph.

575.4—Circumstances applicable to grant

575.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

575.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

575.5—When visa is in effect

575.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

Clause 575.611

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

575.6—Conditions

575.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and
- (e) subject to clause 575.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

575.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

575.613

- (1) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies;condition 8534.
- (2) If the applicant:
 - (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and

- (c) gives to the Minister the evidence mentioned in subclause (3);
condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104(1);
 - (ii) school costs, within the meaning of subclause 5A104(2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3)(a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A708(1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 575 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
- funds from an acceptable source*** has the meaning given by subclause 5A708(2).

575.614

- (1) If the applicant (the primary applicant) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

Clause 575.615

- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

575.615

- (1) If the applicant (the primary applicant) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

575.616

- (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
 - (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and

- (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

575.617

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 576—Foreign Affairs or Defence Sector

576.1—Interpretation

576.111

In this Part:

course of study means a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister, the Foreign Minister or the Defence Minister.

travel costs has the same meaning as in Schedule 5A.

Note: For **foreign country**, see section 2B of the *Acts Interpretation Act 1901*.

576.2—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.

576.21—Criteria to be satisfied at time of application

576.211

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);

- (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).
- (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:
 - (i) a student visa; or
 - (ii) a special purpose visa; or

Clause 576.211

- (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 576 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study or training for which the visa held was granted; and
 - (d) the applicant has the support of the AusAID Minister, the Foreign Minister or the Defence Minister for the grant of the visa.

576.22—Criteria to be satisfied at time of decision

576.221

- (1) Unless, at the time of application, the applicant met the requirements of subclause 576.211(4), the applicant satisfies the criteria in clauses 576.222 to 576.231.
- (2) If, at the time of application, the applicant met the requirements of subclause 576.211(4):
 - (a) the applicant continues to meet the requirements of paragraph 576.211(4)(a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.223(ba); or
 - (ii) the applicant satisfies the criteria in clauses 576.222 to 576.231.

576.222

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
 - (iv) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:

Clause 576.223

- (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 576 and the assessment level to which the applicant is subject, in relation to:
 - (i) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
 - (ii) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
 - (iii) other requirements under Schedule 5A; and
- (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
- (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

576.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4013, 4014 and 4020; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

576.224

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

576.226

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

576.227

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

576.228

The applicant holds a passport of a kind specified in a legislative instrument made by the Minister under regulation 1.40.

Clause 576.229

576.229

The applicant has the support of the Foreign Minister or the Defence Minister for the grant of the visa.

576.230

If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

576.231

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

576.3—Secondary criteria

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

576.31—Criteria to be satisfied at time of application

576.311

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 576.21.

576.312

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive).

Clause 576.314

- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 576.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563 or 576 visa that is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 576 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 576 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 576 student visa, having satisfied the primary criteria for that visa.

576.314

- (1) If the applicant claims to be a member of the family unit of a person (the *primary person*) who holds a student visa having satisfied the primary criteria for that visa, the applicant meets subclause (2) or (3).
- (2) The applicant meets this subclause if:
 - (a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person; and

- (b) the applicant was included in the primary person's application under subregulation 2.07AF(3) or in information provided in relation to the primary person's application under subregulation 2.07AF(4).
- (3) The applicant meets this subclause if the applicant became a member of the family unit of the primary person:
 - (a) after the grant of the student visa to the primary person; and
 - (b) before the application was made.

576.32—Criteria to be satisfied at time of decision

576.321

- (1) Unless, at the time of application, the applicant met the requirements of subclause 576.312(4), the applicant satisfies the criteria in clauses 576.322 to 576.333.
- (2) If, at the time of application, the applicant met the requirements of subclause 576.312(4):
 - (a) the applicant continues to meet the requirements of paragraphs 576.312(4)(a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 576.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.323(b); or
 - (ii) the applicant satisfies the criteria in clauses 576.322 to 576.333.

Clause 576.322

576.322

The applicant is a member of the family unit of a person (the primary person) who:

- (a) is the holder of a Subclass 560, 562 or 576 visa; and
- (b) had the support of the AusAID Minister, the Foreign Minister or the Defence Minister for the grant of that visa.

576.323

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4013, 4014, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

576.324

If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

576.325

If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

576.325A

The Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:

- (a) the applicant's circumstances; and
- (b) the applicant's immigration history; and
- (c) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and
- (d) any other relevant matter.

576.327

The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

576.328

If:

- (a) the applicant is a school-age dependant of the primary person mentioned in clause 576.322; and
- (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

576.329

If the application was made outside Australia and made separately from that of the primary person mentioned in clause 576.322, the primary person is, or is expected soon to be, in Australia.

576.330

The Minister is satisfied that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia—to Australia, and from Australia; or
- (b) if the applicant is in Australia—from Australia.

576.331

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

Clause 576.332

576.332

The applicant has the support of the Foreign Minister or the Defence Minister for the grant of the visa.

576.333

- (1) If:
- (a) the applicant is a member of the family unit of a person (the *primary person*) who is the holder of a Subclass 576 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Subdivision 576.21; and
 - (b) the primary person was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) the applicant was not included in the application for a student visa made by the primary person;
- the applicant must give evidence in accordance with Schedule 5B for assessment level 2.
- (2) If the applicant meets subclause (1), the Minister must also be satisfied that:
- (a) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (b) while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5B.

576.4—Circumstances applicable to grant

576.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

576.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

576.5—When visa is in effect

576.511

Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet)—until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise—until a date specified by the Minister.

576.6—Conditions

576.611

If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8533 and 8535; and
- (c) if the applicant is a citizen of Iran, condition 8203; and
- (d) subject to clause 576.612, 1 or both of conditions 8303 and 8523 may be imposed.

576.612

If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

576.613

- (1) If the applicant satisfies the secondary criteria:

Clause 576.614

- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 (as a person who satisfied the secondary criteria for the subclass) or 563 visa that was subject to condition 8101.

576.614

If the applicant satisfies the secondary criteria, condition 8104.

Subclass 580—Student Guardian

580.1—Interpretation

580.111

In this Part:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the nominating student;
- (d) the nominating student's spouse or de facto partner;
- (e) a parent of the nominating student;
- (f) a grandparent of the nominating student;
- (g) a brother or sister of the nominating student;
- (h) an aunt or uncle of the nominating student, if the aunt or uncle is usually resident in Australia and is:
 - (i) an Australian citizen; or
 - (ii) an Australian permanent resident; or
 - (iii) an eligible New Zealand citizen.

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

family applicant, for an applicant, means a member of the applicant's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the applicant.

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first 12 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia—on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia—on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

full period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia—on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia—on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

living costs, for an applicant for a visa, means an amount worked out as follows:

- (a) for the applicant—an amount specified by the Minister in an instrument in writing for this paragraph (the ***basic rate***); and
- (b) if the applicant has a dependent child who is a family applicant—20% of the basic rate; and
- (c) if the applicant has any further dependent children who are family applicants—15% of the basic rate for each such child.

money deposit means a money deposit with a financial institution.

nominating student, for an applicant, means a person who:

- (a) nominates the applicant on form 157N; and
- (b) at the time of decision for the applicant, holds a student visa that was granted on the basis that the person met the primary criteria for the grant of the student visa; and

- (c) if, at the time of decision for an applicant, there is more than 1 person who meets the requirements of paragraphs (a) and (b)—is the person mentioned in a written communication given to the Minister by the applicant in accordance with Division 2.3.

scholarship means a scholarship that:

- (a) is awarded to a student by his or her education provider or proposed education provider; and
- (b) is awarded on the basis of merit and an open selection process; and
- (c) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (d) is awarded to the greater of:
 - (i) not more than 10% of overseas students in a course intake; and
 - (ii) not more than 3 overseas students in a course intake.

travel costs, for an applicant, means the sum of costs for each of the applicant and any family applicant:

- (a) if the applicant or family applicant is not in Australia when the application is made—of travelling to Australia; and
- (b) of returning to the applicant's home country at the end of his or her stay.

580.113

In subclause 580.226(4):

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;

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- (c) a loan from the government of the home country of the applicant or of the nominating student;
- (d) a scholarship awarded to the nominating student by his or her education provider or proposed education provider;
- (e) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the nominating student in a role in relation to which the nominating student's principal course is directly relevant; or
 - (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation.

580.114

In subclauses 580.226(5) and (6):

funds from an acceptable source does not include the value of an item of property.

Note: *Assessment level, Australian permanent resident, custody, Defence Minister, education provider, eligible New Zealand citizen, Foreign Affairs recipient, Foreign Affairs student, Foreign Minister, home country and relative* are defined in regulation 1.03. *Member of the family unit* is defined in regulation 1.12.

580.2—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.

580.21—Criteria to be satisfied at time of application

580.211

- (1) If the application is made 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:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;

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- (xix) Temporary Work (Entertainment) (Class GE);
- (xx) Special Program (Temporary) (Class TE);
- (xxi) Subclass 600 (Visitor); or
- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (iii) Subclass 497 (Graduate—Skilled).
- (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:
 - (i) a Subclass 580 (Student Guardian) visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified in a legislative instrument made by the Minister) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision—the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and

- (B) the day when the applicant is taken, under sections 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.

580.22—Criteria to be satisfied at time of decision

580.222

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirements of this subclause if:
 - (a) the nominating student has not turned 18; and
 - (b) the applicant is able to:
 - (i) provide appropriate accommodation and support for the nominating student; and
 - (ii) provide for the general welfare of the nominating student; and
 - (c) the applicant is either:
 - (i) a parent of the nominating student or a person who has custody of the nominating student; or
 - (ii) a person who:
 - (A) is a relative of the nominating student; and
 - (B) has turned 21; and
 - (d) if subparagraph (c)(ii) applies—the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or
 - (ii) a person who has custody of the nominating student.
- (3) The applicant meets the requirements of this subclause if:
 - (a) the nominating student has turned 18; and
 - (b) the Minister is satisfied that there are exceptional reasons why the nominating student needs the applicant to reside with the nominating student in Australia; and
 - (c) the applicant is able to:

Clause 580.223

- (i) provide appropriate accommodation and support for the nominating student; and
 - (ii) provide for the general welfare of the nominating student; and
- (d) the applicant is a person who:
 - (i) is a relative of the nominating student; and
 - (ii) has turned 21.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the Minister is satisfied that the grant of the visa to the applicant will significantly benefit the relationship between the government of Australia and the government of a foreign country; and
 - (b) the applicant has turned 21; and
 - (c) if the nominating student has not turned 18—the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or
 - (ii) a person who has custody of the nominating student.

580.223

- (1) The applicant meets the requirements of subclauses (2), (3) and (4).
- (2) The applicant meets the requirements of this subclause if:
 - (a) the Minister is satisfied that the applicant has a genuine intention to reside in Australia with the nominating student; and
 - (b) the Minister is satisfied that the nominating student has a genuine intention to reside in Australia with the applicant; and
 - (c) the Minister is satisfied that, unless the applicant meets the requirements of subclause 580.222(4), the nominating student does not intend to reside in Australia with:
 - (i) a holder of a Subclass 580 visa other than the applicant; or

- (ii) a parent of the nominating student, or a person who has custody of the nominating student, other than the applicant; and

Note: If the applicant meets the requirements of subclause 580.222(4), the nominating student may intend to reside with 1 or more holders of a Subclass 580 visa in addition to the applicant.

- (d) unless:

- (i) the applicant satisfies subclause 580.222(4); or
- (ii) the Minister has, under subclause (2A), waived the requirement in this paragraph;

each member of the family unit of the applicant has turned 6; and

- (e) the Minister is satisfied that the applicant has made appropriate arrangements, for the period of the applicant's proposed stay in Australia, for the accommodation, support and general welfare of each member of the applicant's family unit:

- (i) who has not turned 18; and
- (ii) who does not hold a student visa.

- (2A) The Minister may waive the requirement under paragraph (2)(d) if:

- (a) each child under 6 would be subject to assessment level 1 or 2 if the child were an applicant for a Subclass 571 (Schools Sector) visa; and
- (b) the Minister is satisfied that there are compelling and compassionate reasons to do so.

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

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021; and
- (b) if the applicant seeks to reside in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and

Clause 580.225

- (c) if the application was made outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (4) The applicant meets the requirements of this subclause if the applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

580.225

If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister or the Defence Minister for the grant of the visa.

580.226

- (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian because:
 - (a) the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:
 - (i) the applicant's circumstances; and
 - (ii) the applicant's immigration history; and
 - (iii) any other relevant matter; and
 - (b) the applicant meets the requirements of subclause (1A).
- (1A) An applicant meets the requirements of this subclause if:
 - (b) the applicant gives to the Minister evidence relating to the applicant's financial capacity in accordance with subclause (4), (5) or (6); and
 - (c) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and

- (d) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with subclause (4), (5) or (6).
- (4) If the nominating student was, at the time his or her visa was granted, subject to assessment level 3, 4 or 5, the evidence for paragraph (1A)(b) is:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 12 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period.
- (5) If the nominating student was, at the time his or her visa was granted, subject to assessment level 1 or 2:
 - (a) the evidence for paragraph (1A)(b) is:
 - (i) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 12 months; and
 - (ii) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (iii) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period; and
 - (b) the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

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- (6) If the nominating student was, at the time his or her visa was granted, an eligible higher degree student within the meaning of Part 573 or 574 or an eligible non-award student within the meaning of Part 575:
- (a) the evidence for paragraph (1A)(b) is:
 - (i) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 12 months; and
 - (ii) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (iii) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period; and
 - (b) the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

580.227

If:

- (a) the application was made in Australia; and
- (b) the student who nominated the applicant was subject to assessment level 2, 3, 4 or 5 in respect of the student visa held by that student; and
- (c) at the time of application, the applicant met the requirements of clause 580.211:
 - (i) as the holder of a visa of one of the following classes or subclasses:
 - (A) Border (Temporary) (Class TA);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);

- (K) Retirement (Temporary) (Class TQ);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Subclass 400 (Temporary Work (Short Stay Activity));
 - (NB) Tourist (Class TR);
 - (NC) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ);
 - (P) Temporary Work (Long Stay Activity) (Class GB);
 - (Q) Training and Research (Class GC);
 - (QA) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (R) Temporary Work (Entertainment) (Class GE);
 - (S) Special Program (Temporary) (Class TE);
 - (T) Subclass 600 (Visitor); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (C) Subclass 497 (Graduate Skilled); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);
- the applicant establishes exceptional reasons for the grant of a Subclass 580 visa.

Clause 580.228

580.228

If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

580.229

If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant remaining in Australia as a student guardian.

580.3—Secondary criteria

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

580.31—Criteria to be satisfied at time of application

580.310

If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 580 visa; or
- (b) a person who satisfies the primary criteria in Subdivision 580.21.

580.311

- (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) the holder of a visa of one of the following classes or subclasses:
 - (i) Border (Temporary) (Class TA);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Subclass 400 (Temporary Work (Short Stay Activity));
 - (xvb) Tourist (Class TR);
 - (xvc) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ);
 - (xvii) Temporary Work (Long Stay Activity) (Class GB);
 - (xviii) Training and Research (Class GC);
 - (xviiia) Subclass 403 (Temporary Work (International Relations)) other than a visa in the Domestic Worker (Diplomatic or Consular) stream;
 - (xix) Temporary Work (Entertainment) (Class GE);
 - (xx) Special Program (Temporary) (Class TE);
 - (xxi) Subclass 600 (Visitor); or

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- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary)—Executive);
 - (iii) Subclass 497 (Graduate—Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 580.211(2).
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 580.211(3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's last substantive visa ceased to be in effect.

580.32—Criteria to be satisfied at time of decision

580.321

The applicant meets the requirements of clauses 580.322, 580.323, 580.324, 580.325, 580.326 and 580.327.

580.322

The applicant has not turned 6.

580.323

The applicant is a member of the family unit of a person:

- (a) in relation to whom the Minister has, under subclause 580.223(2A), waived the requirement in paragraph 580.223(2)(d); and
- (b) who has otherwise satisfied the primary criteria in Subdivision 580.22.

580.324

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4017, 4018, 4020 and 4021.

580.325

If the application is in respect of a proposed stay in Australia of more than 12 months, the applicant also satisfies public interest criterion 4010.

580.326

If:

- (a) the application is made outside Australia; and
 - (b) the applicant has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.

580.327

The applicant produces to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

Clause 580.411

580.4—Circumstances applicable to grant

580.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

580.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

580.5—When visa is in effect

580.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

580.6—Conditions

580.611

- (1) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222(2) or (3)—conditions 8101, 8201, 8501, 8516, 8534, 8537 and 8538.
- (2) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222(4)—conditions 8106, 8201, 8501, 8516, 8534, 8537 and 8538.

580.612

In the case of a visa granted to an applicant who meets the requirements of clause 580.321—conditions 8101, 8501, 8502 and 8516.

Subclass 600—Visitor

600.1—Interpretation

Note 1: For *business visitor activity*: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

600.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 600 visa include criteria set out in streams.

If an applicant applies for a Subclass 600 visa in the Tourist stream, the criteria in Subdivisions 600.21 and 600.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 600 visa in the Sponsored Family stream, the criteria in Subdivisions 600.21 and 600.23 are the primary criteria.

If an applicant applies for a Subclass 600 visa in the Business Visitor stream, the criteria in Subdivisions 600.21 and 600.24 are the primary criteria.

If an applicant applies for a Subclass 600 visa in the Approved Destination Status stream, the criteria in Subdivisions 600.21 and 600.25 are the primary criteria.

The primary criteria must be satisfied by all applicants.

All criteria must be satisfied at the time a decision is made on the application.

600.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 600 visa.

600.211

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

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- (b) whether the applicant intends to comply with the conditions to which the Subclass 600 visa would be subject; and
- (c) any other relevant matter.

600.212

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.

600.213

- (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 also satisfies public interest criteria 4012, 4017 and 4018.

600.214

The applicant satisfies special return criteria 5001, 5002 and 5010.

600.215

If the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of:

- (a) one or more visitor visas; or
 - (b) a Subclass 417 (Working Holiday) visa; or
 - (c) a Subclass 462 (Work and Holiday) visa;
- exceptional circumstances exist for the grant of the visa.

600.22—Criteria for Tourist stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Tourist stream.

600.221

The applicant intends to visit Australia, or remain in Australia:

- (a) to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
- (b) for any other purpose that is not related to business or medical treatment.

600.222

If the applicant:

- (a) is in Australia; and
- (b) holds a student visa, or has been the holder of a student visa since last entering Australia;

the visa is not sought for the purpose of commencing, continuing or completing a registered course in which the applicant is enrolled.

600.223

- (1) If the applicant was in Australia at the time of application, and held a substantive temporary visa, the visa was not:
 - (a) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or
 - (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.
- (2) If the applicant was in Australia at the time of application, and did not hold a substantive visa:
 - (a) the last substantive visa the applicant held was not:
 - (i) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or
 - (ii) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; and

Clause 600.224

- (b) the applicant satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005.

600.224

- (1) Subclauses (2) to (4) apply if:
 - (a) an applicant intends to visit Australia, or remain in Australia to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; and
 - (b) the Minister has required the applicant, and each other applicant who is a member of the applicant's family unit, or in relation to whom the applicant is a member of the family unit, to be sponsored by a settled Australian citizen, or a settled Australian permanent resident, who is at least 18 and:
 - (i) a relative of the applicant; or
 - (ii) a relative of another applicant who is a member of the family unit of the applicant; or
 - (iii) a relative of another applicant in relation to whom the applicant is a member of the family unit.
- (2) The applicant is sponsored as required by the Minister.
- (3) The sponsorship has been approved by the Minister and is still in force.
- (4) If the applicant is not a relative of the sponsor, a Subclass 600 visa in the Tourist stream has been granted to another person who is:
 - (a) a relative of the sponsor; and
 - (b) sponsored by the sponsor in relation to the applicant's visit.

600.225

- (1) Subclause (2) applies if:
 - (a) the Minister has required the applicant to be sponsored as described in paragraph 600.224(1)(b); and
 - (b) the applicant is sponsored as required by the Minister; and

- (c) the sponsorship has been approved by the Minister and is still in force; and
 - (d) an officer authorised under section 269 of the Act (which deals with security for compliance with the Act) has asked for the lodgement of a security.
- (2) The security has been lodged.

600.23—Criteria for Sponsored Family stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Sponsored Family stream.

600.231

The applicant intends to visit Australia:

- (a) to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
- (b) for any other purpose that is not related to business or medical treatment.

600.232

- (1) One of subclauses (2) to (4) applies.
- (2) The applicant is sponsored by a settled Australian citizen, or a settled Australian permanent resident, who is at least 18 and:
 - (a) a relative of the applicant; or
 - (b) a relative of another applicant who is a member of the family unit of the applicant; or
 - (c) a relative of another applicant in relation to whom the applicant is a member of the family unit.
- (3) The applicant is sponsored by a settled Australian citizen, or a settled Australian permanent resident, who:
 - (a) is a member of the Commonwealth Parliament or a State Parliament; or

Clause 600.233

- (b) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (c) holds the office of mayor.
- (4) The applicant is sponsored by a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality.

600.233

If subclause 600.232(2) applies, and if the applicant is not a relative of the sponsor, a Subclass 600 visa in the Sponsored Family stream has been granted to another person who is:

- (a) a relative of the sponsor; and
- (b) sponsored by the sponsor in relation to the applicant's visit.

600.234

The sponsorship described in subclause 600.232(2), (3) or (4) has been approved by the Minister and is still in force.

600.235

If an officer authorised under section 269 of the Act (which deals with security for compliance with the Act) has asked for the lodgement of a security, the security has been lodged.

600.24—Criteria for Business Visitor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Business Visitor stream.

600.241

The applicant intends to visit Australia to engage in a business visitor activity.

600.242

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.

600.25—Criteria for Approved Destination Status stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Approved Destination Status stream.

600.251

- (1) The applicant is a citizen of PRC.
- (2) The applicant is resident in an area of PRC specified by the Minister in an instrument in writing for this subclause.

600.252

The applicant intends to travel to Australia as a member of a tour organised by a travel agent specified by the Minister in an instrument in writing for item 3 of the table in subitem 1236(6) of Schedule 1.

600.253

The applicant intends to travel to Australia for the purpose of sightseeing and related activities.

600.254

A statement of the travel and touring arrangements has been provided to the Minister.

600.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

600.4—Circumstances applicable to grant

600.411

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

600.412

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

600.413

An applicant for a Subclass 600 visa in the Approved Destination Status stream must be in PRC at the time of grant.

600.5—When visa is in effect

600.511

- (1) If the visa:
 - (a) is granted to an applicant in Australia; and
 - (b) does not specify that it permits the holder to travel to and enter Australia;temporary visa permitting the holder to remain in Australia for a period, or until a date, specified by the Minister.
- (2) If the visa:
 - (a) is granted to an applicant in Australia; and
 - (b) specifies that it permits the holder to travel to and enter Australia;temporary visa permitting the holder to travel to, and enter, Australia on one or more occasions, as specified by the Minister, until a date specified by the Minister and to remain in Australia, after each entry, for a period, or until a date, specified by the Minister.

600.512

If the visa is granted to an applicant outside Australia, temporary visa permitting the holder to travel to, and enter, Australia on one or more occasions, as specified by the Minister, until a date specified by the Minister and to remain in Australia, after each entry, for a period, or until a date, specified by the Minister.

600.513

Despite clauses 600.511 and 600.512, if:

- (a) the visa is granted to an applicant on the basis of a deemed application under regulation 2.07AA; and
- (b) the applicant already holds a substantive visa that is in effect at the time of grant;

the Subclass 600 visa comes into effect when the other substantive visa ceases to be in effect.

Note: If the visa period of the Subclass 600 visa ends before the other substantive visa ceases, the Subclass 600 visa never comes into effect.

600.6—Conditions

600.611

- (1) Subclauses (2) to (4) apply if the visa is a Subclass 600 visa in the Tourist stream.
- (2) If the sponsorship described in clause 600.224 has been approved by the Minister, conditions 8101, 8201, 8503, and 8531 must be imposed.
- (3) If the applicant was not sponsored in accordance with clause 600.224, and subclause (4) does not apply:
 - (a) conditions 8101 and 8201 must be imposed; and
 - (b) conditions 8501, 8503 and 8558 may be imposed.
- (4) If:

Clause 600.612

- (a) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia; and
- (b) the applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia; and
- (c) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia; and
- (d) the applicant has compelling personal reasons to work in Australia;

condition 8201 must be imposed and condition 8503 may be imposed.

600.612

If the visa is a Subclass 600 visa in the Sponsored Family stream, conditions 8101, 8201, 8503, and 8531 must be imposed.

600.613

If the visa is a Subclass 600 visa in the Business Visitor stream:

- (a) conditions 8115 and 8201 must be imposed; and
- (b) condition 8503 may be imposed.

600.614

If the visa is a Subclass 600 visa in the Approved Destination Status stream, conditions 8101, 8207, 8503 and 8530 must be imposed.

Subclass 601—Electronic Travel Authority

601.1—Interpretation

Note 1: For *business visitor activity* and *ETA-eligible passport*: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

601.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 601 visa must be satisfied by all applicants.
All criteria must be satisfied at the time a decision is made on the application.

601.21—Criteria

601.211

The applicant holds an ETA-eligible passport.

601.212

The applicant genuinely intends to visit Australia temporarily:

- (a) as a tourist; or
- (b) to engage in a business visitor activity.

601.213

The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013, 4014 and 4020.

601.214

The applicant satisfies special return criteria 5001 and 5002.

Clause 601.411

601.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

601.4—Circumstances applicable to grant

601.411

If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

601.412

If the application is made outside Australia, the applicant must be outside Australia at time of grant.

601.5—When visa is in effect

601.511

Temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on multiple occasions within the shorter of:
 - (i) 12 months from the date of the grant of the visa; and
 - (ii) the life of the holder's passport; and
- (b) to remain in Australia, after each entry, for 3 months.

601.512

Despite clause 601.511, if the applicant already holds a substantive visa (other than a Special Purpose visa or a Subclass 988 (Maritime Crew) visa) that is in effect at the time of grant, the Subclass 601 visa comes into effect when the other substantive visa ceases to be in effect.

Note: If the visa period of the Subclass 601 visa ends before the other substantive visa ceases, the Subclass 601 visa never comes into effect.

601.513

If the applicant already holds a substantive visa that is in effect at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

601.6—Conditions

601.611

Conditions 8115, 8201, 8527 and 8528 must be imposed.

Subclass 602—Medical Treatment

602.1—Interpretation

Note: There are no interpretation provisions specific to this Part.

602.2—Primary criteria

Note: All applicants must satisfy the primary criteria unless the applicant is a member of the family unit of a person who holds:

- (a) a Subclass 602 visa on the basis of satisfying subclause 602.212(6) (unfit to depart); or
- (b) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis of satisfying subclause 685.221(4) (unfit to depart).

Those applicants must satisfy the secondary criteria.
All criteria must be satisfied at the time a decision is made on the application.

602.211

The applicant seeks to visit Australia, or remain in Australia temporarily, for the purposes of medical treatment or for related purposes.

602.212

- (1) The requirements in one of subclauses (2) to (8) are met.

Medical treatment

- (2) All of the following requirements are met:
- (a) the applicant seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia;
 - (b) arrangements have been concluded to carry out the treatment;
 - (c) if the treatment is an organ transplant:
 - (i) the donor of the relevant organ is accompanying the applicant to Australia; or

- (ii) all requisite arrangements to effect the donation of the organ have been concluded in Australia;
- (d) 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;
- (e) arrangements have been concluded for the payment of all costs related to the treatment and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant;
- (f) either:
 - (i) the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or a public authority in Australia; or
 - (ii) evidence is produced that the relevant government authority has approved the payment of those costs.

Organ donor

- (3) All of the following requirements are met:
 - (a) the applicant seeks to donate an organ for transplant in Australia;
 - (b) if the organ recipient is also an applicant, the requirements described in subclause (2) are met in relation to the organ recipient;
 - (c) the applicant satisfies public interest criterion 4005;
 - (d) arrangements have been concluded for the payment of all costs related to the organ transplant and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant;
 - (e) either:
 - (i) the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or a public authority in Australia; or
 - (ii) evidence is produced that the relevant government authority has approved the payment of those costs.

Clause 602.212

Support person

- (4) All of the following requirements are met:
- (a) the applicant seeks to give emotional and other support to an applicant in relation to whom:
 - (i) the requirements described in subclause (2) or (3) are met; or
 - (ii) the requirements described in subclause 675.212(2) or (3) are met; or
 - (iii) the requirements described in subclause 685.212(2) or (3) are met;
 - (b) the person to whom the applicant is to provide support holds:
 - (i) a Subclass 602 visa on the basis that the requirements described in subclause (2) or (3) have been met; or
 - (ii) a Subclass 675 (Medical Treatment (Short Stay)) visa on the basis that the requirements described in subclause 675.212(2) or (3) have been met; or
 - (iii) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis that the requirements described in subclause 685.212(2) or (3) have been met;
 - (c) the applicant satisfies public interest criterion 4005.

Western Province of Papua New Guinea

- (5) All of the following requirements are met:
- (a) the applicant is a citizen of Papua New Guinea;
 - (b) the applicant resides in the Western Province of Papua New Guinea;
 - (c) the Department of the government of Queensland that is responsible for health has approved the medical evacuation of the applicant to, or treatment of the applicant in, a hospital in Queensland.

Unfit to depart

- (6) All of the following requirements are met:
- (a) the applicant is in Australia;

- (b) the applicant has turned 50;
- (c) the applicant has applied for a permanent visa while in Australia;
- (d) the applicant appears to have met all the criteria for the grant of that visa, other than public interest criteria related to health;
- (e) the applicant has been refused the visa;
- (f) the applicant is medically unfit to depart Australia due to a permanent or deteriorating disease or health condition, as evidenced by a written statement to that effect from a Medical Officer of the Commonwealth.

Financial hardship

- (7) All of the following requirements are met:
 - (a) one of the following applies:
 - (i) the requirements described in paragraphs (2)(a) to (c) are met in relation to the applicant;
 - (ii) the requirements described in paragraphs (3)(a) and (b) are met in relation to the applicant;
 - (iii) the requirements described in paragraphs (4)(a) and (b) are met in relation to the applicant;
 - (iv) the requirements described in subclause (5) are met in relation to the applicant;
 - (v) the requirements described in paragraphs (6)(a) to (e) are met in relation to the applicant;
 - (b) the applicant is in Australia;
 - (c) the applicant holds:
 - (i) a Subclass 602 visa; or
 - (ii) a Subclass 675 (Medical Treatment (Short Stay)) visa; or
 - (iii) a Subclass 685 (Medical Treatment (Long Stay)) visa;
 - (d) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;

Clause 602.213

- (e) the applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia;
- (f) the applicant, or a member of the applicant's immediate family, cannot leave Australia for reasons beyond his or her control;
- (g) the applicant has compelling personal reasons to work in Australia;
- (h) the applicant satisfies public interest criterion 4005.

Compelling personal reasons

- (8) All of the following requirements are met:
 - (a) one of the following applies:
 - (i) the requirements described in paragraphs (2)(a) to (c) are met in relation to the applicant;
 - (ii) the requirements described in paragraphs (3)(a) and (b) are met in relation to the applicant;
 - (iii) the requirements described in paragraphs (4)(a) and (b) are met in relation to the applicant;
 - (iv) the requirements described in subclause (5) are met in relation to the applicant;
 - (v) the requirements described in paragraphs (6)(a) to (e) are met in relation to the applicant;
 - (b) the applicant is in Australia;
 - (c) the applicant has compelling personal reasons for the grant of the visa;
 - (d) the applicant satisfies public interest criterion 4005, other than paragraph 4005(1)(c).

602.213

- (1) Subclause (2) applies if:
 - (a) the applicant was in Australia at the time of application; and
 - (b) the applicant held a substantive temporary visa at that time; and

- (c) the requirements described in subclause 602.212(6) are not met in relation to the applicant.
- (2) The substantive temporary visa held by the applicant was not:
 - (a) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or
 - (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.
- (3) Subclauses (4) and (5) apply if:
 - (a) the applicant was in Australia at the time of application; and
 - (b) the applicant did not hold a substantive temporary visa at that time; and
 - (c) the requirements described in subclause 602.212(6) are not met in relation to the applicant.
- (4) The last substantive temporary visa held by the applicant was not:
 - (a) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or
 - (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.
- (5) The applicant satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005.

602.214

- (1) No Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.
- (2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

Clause 602.215

602.215

- (1) 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 602 visa would be subject; and
 - (c) any other relevant matter.
- (2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

602.216

- (1) 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.
- (2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

602.217

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.
- (2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6), (7) or (8) are met in relation to the applicant.

602.218

The applicant satisfies public interest criteria 4020 and 4021.

602.219

If the applicant has not turned 18, the applicant also satisfies public interest criteria 4012, 4017 and 4018.

602.219A

The applicant satisfies special return criteria 5001, 5002 and 5010.

602.219B

- (1) If the application is made in Australia:
 - (a) the period of stay in Australia to which the application relates is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (b) if the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of one or more visitor visas, compelling personal reasons or exceptional circumstances exist for the grant of the visa.
- (2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6), (7) or (8) are met in relation to the applicant.

602.3—Secondary criteria

Note: These criteria are for certain 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.

602.311

The applicant is a member of the family unit of a person who holds:

Clause 602.312

- (a) a Subclass 602 visa on the basis of satisfying the requirements in subclause 602.212(6); or
- (b) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis of satisfying the requirements in subclause 685.221(4).

602.312

- (1) The applicant satisfies public interest criteria 4020 and 4021.
- (2) If the applicant has not turned 18, the applicant also satisfies public interest criteria 4012, 4017 and 4018.

602.313

The applicant satisfies special return criterion 5010.

Financial hardship

602.314

- (1) Subclauses (2) to (6) apply if the applicant holds:
 - (a) a Subclass 602 visa; or
 - (b) a Subclass 675 (Medical Treatment (Short Stay)) visa; or
 - (c) a Subclass 685 (Medical Treatment (Long Stay)) visa.
- (2) The applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia.
- (3) The applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia.
- (4) For reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia.
- (5) The applicant has compelling personal reasons to work in Australia.

- (6) The applicant satisfies public interest criterion 4005.

602.4—Circumstances applicable to grant

602.411

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

602.412

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

602.5—When visa is in effect

602.511

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.

602.6—Conditions

602.611

- (1) If:
 - (a) the applicant holds a Subclass 602 visa on the basis of satisfying the primary criteria; and
 - (b) the requirements described in subclause 602.212(7) have been met in relation to the applicant;condition 8201 must be imposed.
- (2) If:
 - (a) the applicant holds a Subclass 602 visa on the basis of satisfying the secondary criteria; and

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Subclass 602 Medical Treatment

Clause 602.612

- (b) the requirements described in clause 602.314 have been met in relation to the applicant;
condition 8201 must be imposed.
- (3) In any other case, conditions 8101 and 8201 must be imposed.

602.612

Condition 8503 may be imposed.

Subclass 651—eVisitor

651.1—Interpretation

Note 1: For *business visitor activity* and *eVisitor eligible passport*: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

651.2—Primary Criteria

Note: The primary criteria for the grant of a Subclass 651 visa must be satisfied by all applicants.
All criteria must be satisfied at the time a decision is made on the application.

651.21—Criteria

651.211

The applicant holds an eVisitor eligible passport.

651.212

The applicant genuinely intends to visit Australia temporarily:

- (a) as a tourist; or
- (b) to engage in a business visitor activity.

651.213

The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013, 4014 and 4020.

651.214

The applicant satisfies special return criteria 5001 and 5002.

Clause 651.411

651.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

651.4—Circumstances applicable to grant

651.411

The applicant must be outside Australia at the time of the grant.

651.5—When visa is in effect

651.511

Temporary visa permitting the holder:

- (a) to travel to and enter Australia on multiple occasions within 12 months from the date of the grant of the visa; and
- (b) to remain in Australia, after each entry, for 3 months.

651.6—Conditions

651.611

Conditions 8115, 8201, 8527 and 8528 must be imposed.

Subclass 676—Tourist

676.1—Interpretation

Note: *oral application* is defined in regulation 1.03. There are no interpretation provisions specific to this Part.

676.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

676.21—Criteria to be satisfied at time of application

676.211

The applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine.

676.212

The applicant seeks to visit Australia, or remain in Australia as a visitor:

- (a) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
- (b) for a purpose other than a purpose related to business or medical treatment.

676.213

The applicant:

- (a) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
- (b) meets the requirements of paragraph 676.221(3)(f).

Clause 676.215

676.215

If the applicant is in Australia:

- (a) either:
 - (i) at the time of application, the applicant held a substantive temporary visa other than:
 - (A) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or
 - (B) a Subclass 426 (Domestic Worker (Temporary)—Diplomatic or Consular) visa; or
 - (ii) if the applicant did not hold a substantive temporary visa at the time of application:
 - (A) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (B) the applicant satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
- (b) 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.

676.22—Criteria to be satisfied at time of decision

676.221

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (b) the applicant continues to satisfy the criteria in clauses 676.212 and 676.213; and
 - (c) either:
 - (i) if the applicant has not turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013, 4014,

- 4017, 4018 and 4021 are satisfied in relation to the applicant; or
- (ii) if the applicant has turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014 and 4021 are satisfied in relation to the applicant; and
- (e) if the applicant is in Australia:
- (i) the applicant continues to satisfy the criteria in paragraph 676.215(b); and
- (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
- (iii) if the applicant is the holder of a student visa, or has been the holder of a student visa since last entering Australia—the Minister is satisfied that:
- (A) the period of the applicant's stay in Australia is not sought for the purpose of commencing a registered course; and
- (B) the period of the applicant's stay in Australia is not sought for the purpose of continuing or completing a registered course in which the applicant is enrolled.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is in Australia; and
- (b) the application was not an oral application; and
- (c) the application was not made on form 601E; and
- (d) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
- (e) the applicant continues to satisfy the criteria in clause 676.212; and
- (f) either:
- (i) the applicant has compelling personal reasons for the grant of the visa; or
- (ii) each of the following applies:

Clause 676.222

- (A) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;
 - (B) the applicant, or a member of the applicant's immediate family, is likely to become a charge on public funds in Australia;
 - (C) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia;
 - (D) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
- (g) the applicant satisfies public interest criteria 4005 and 4021; and
- (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

676.222

- (1) 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.
- (2) The Minister may waive the requirements of subclause (1) 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.

676.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

676.224

If the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas or a Subclass 417 (Working Holiday) visa, the Minister is satisfied that exceptional circumstances exist for the grant of the visa.

676.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

676.4—Circumstances applicable to grant

676.411

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

676.413

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

676.5—When visa is in effect

676.511

If the visa was granted to an applicant outside Australia—temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.

Clause 676.512

676.512

If the visa was granted to an applicant in Australia (not being on the basis of an oral application)—temporary visa permitting the holder:

- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.513

If the visa was granted to an applicant in Australia on the basis of an oral application—temporary visa permitting the holder:

- (a) to remain in Australia until the date (the *last stay date*) that is the earlier of:
 - (i) the date 6 months after the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to remain in Australia; and
 - (ii) the date 12 months from the date on which the holder last entered Australia; and
- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until the later of:
 - (A) the last stay date; and
 - (B) the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to enter Australia; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.6—Conditions

676.611

In the case of a visa granted to an applicant who meets the requirements of sub-subparagraph 676.221(3)(f)(ii)(D), that the applicant has compelling personal reasons to work in Australia:

- (a) condition 8201 must be imposed; and
- (b) condition 8503 may be imposed.

676.613

In any other case:

- (a) conditions 8101 and 8201 must be imposed; and
- (b) conditions 8501, 8503 and 8558 may be imposed.

Subclass 771—Transit

771.1—Interpretation

Note: *non-military ship* and *member of the crew* are defined in regulation 1.03. No interpretation provisions specific to this Part.

771.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

771.21—Criteria to be satisfied at time of application

771.211

The applicant intends to remain in Australia no longer than 72 hours.

771.212

The applicant establishes that the applicant's principal purpose in entering Australia is:

- (a) to pass through Australia in transit to another country; or
- (b) to pass through Australia for the purpose of signing on to a non-military ship (other than a ship that is being imported into Australia) as a member of the crew.

771.213

The applicant produces tickets or documentation, or both, establishing that the applicant has concluded arrangements for travel to a destination outside Australia.

771.22—Criteria to be satisfied at time of decision

771.221

The applicant continues to satisfy the criteria in clauses 771.211 to 771.213.

771.222

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014 and 4021.

771.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

771.3—Secondary criteria: Nil.

Note: All applicants must meet the primary criteria.

771.4—Circumstances applicable to grant

771.411

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

771.5—When visa is in effect

771.511

Temporary visa permitting the holder to travel to and enter Australia on 1 or more occasions and to remain in Australia no longer than 72 hours on each occasion.

Clause 771.611

771.6—Conditions

771.611

The holder must enter on or before the date specified by the Minister for the purpose.

771.612

Conditions 8101 and 8201.

771.613

Any 1 or more of conditions 8501, 8514 and 8516 may be imposed.

Subclass 773—Border

773.1—Interpretation

Note: *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

773.2—Primary criteria

Note: All applicants must meet the primary criteria.

773.21—Criteria to be satisfied at time of application

773.211

If the applicant has entered Australia and seeks immigration clearance, the applicant satisfies the criteria in clauses 773.212 to 773.216.

773.212

The applicant does not seek to remain in Australia as a refugee or on humanitarian grounds.

773.213

- (1) The applicant is:
- (a) the spouse or de facto partner of an Australian citizen, Australian permanent resident or an eligible New Zealand citizen; or
 - (b) a person who is apparently eligible for a Return (Residence) visa or Resident Return (Temporary) visa; or
 - (c) a person who has entered Australia with a visa that has been cancelled on presentation in immigration clearance because the person has breached a condition that the person is not to arrive in Australia before the arrival of another person specified in the visa; or

Clause 773.213

- (d) a person who:
 - (i) is a dependent child of:
 - (A) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (B) the holder of a visa of a class set out in subclause (2); or
 - (C) the holder of a visa of a class specified in subclause (3); or
 - (D) the holder of a visa of a subclass specified in subclause (4); and
 - (ii) arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa; or
- (e) a person who:
 - (i) immediately before last departing Australia, held a visa of:
 - (A) a class specified in subclause (3); or
 - (B) a subclass specified in subclause (4); and
 - (ii) departed in circumstances in which it was not reasonably practicable to obtain a visa before departing; and
 - (iii) would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia; or
- (f) a person who:
 - (i) immediately before last departing Australia, held a Student (Temporary) visa; and
 - (ii) departed in circumstances in which it was not reasonably practicable for the person to obtain a visa before departing; or
- (g) a person who:
 - (i) has entered Australia without a visa that is in effect; and
 - (ii) seeks to remain in Australia on a temporary basis; and
 - (iii) appears to the Minister, from information in the application, to be a person:

- (A) who is eligible for the grant of a Visitor (Class TV) visa; or
 - (B) who is, apart from the requirements of subitem 1236(5) of Schedule 1, eligible for the grant of a Subclass 600 (Visitor) visa; or
 - (C) who is, apart from the requirements of subitem 1224(3) of Schedule 1 and clause 771.411 of this Schedule, eligible for the grant of a Transit (Temporary) (Class TX) visa; or
 - (D) who is, apart from the requirements of item 1231 of Schedule 1 and clause 400.411 of this Schedule, eligible for the grant of a Subclass 400 (Temporary Work (Short Stay Activity)) visa.
- (2) The classes of visa referred to in sub-subparagraph (1)(d)(i)(B) are the following:
- (a) Spouse (Migrant) (Class BC);
 - (ab) Partner (Migrant) (Class BC);
 - (b) Child (Migrant) (Class AH);
 - (c) Adoption (Migrant) (Class AA);
 - (d) Parent (Migrant) (Class AX);
 - (e) Preferential Relative (Migrant) (Class AY);
 - (f) Skilled—Australian Linked (Migrant) (Class AJ);
 - (g) Labour Agreement (Migrant) (Class AU);
 - (h) Employer Nomination (Migrant) (Class AN);
 - (ha) Employer Nomination (Permanent) (Class EN);
 - (hb) Regional Employer Nomination (Permanent) (Class RN);
 - (j) Distinguished Talent (Migrant) (Class AL);
 - (k) Independent (Migrant) (Class AT);
 - (l) Business Skills (Migrant) (Class AD);
 - (la) Business Skills—Business Talent (Permanent) (Class EA);
 - (lb) Business Skills—Established Business (Residence) (Class BH);

Clause 773.213

- (lc) Business Skills (Residence) (Class DF);
- (ld) Business Skills (Permanent) (Class EC);
- (n) Special Eligibility (Migrant) (Class AR);
- (q) General (Residence) (Class AS);
- (s) Confirmatory (Residence) (Class AK);
- (t) Special Eligibility (Residence) (Class AO);
- (u) Refugee and Humanitarian (Migrant) (Class BA);
- (v) Camp Clearance (Migrant) (Class AF);
- (w) East Timorese in Portugal (Special Assistance) (Class AM);
- (x) Citizens of the Former Yugoslavia (Special Assistance) (Class AI);
- (y) Minorities of Former USSR (Special Assistance) (Class AV);
- (z) Burmese in Burma (Special Assistance) (Class AB);
- (za) Sudanese (Special Assistance) (Class BD);
- (zb) Burmese in Thailand (Special Assistance) (Class AC);
- (zc) Cambodian (Special Assistance) (Class AE);
- (zd) Return (Residence) (Class BB);
- (ze) Norfolk Island Permanent Resident (Residence) (Class AW);
- (zf) protection visas (including Protection (Class AZ) visas, see subsection 35A(5) of the Act);
- (zg) Territorial Asylum (Residence) (Class BE);
- (zga) Designated Parent (Migrant) (Class BY);
- (zgb) Designated Parent (Residence) (Class BZ);
- (zh) Skilled – Independent (Migrant) (Class BN);
- (zi) Skilled – Australian-sponsored (Migrant) (Class BQ);
- (zj) Other Family (Migrant) (Class BO);
- (zk) Aged Parent (Residence) (Class BP);
- (zl) Partner (Residence) (Class BS);
- (zm) Child (Residence) (Class BT);
- (zn) Other Family (Residence) (Class BU);
- (zo) Skilled—New Zealand Citizen (Residence) (Class DB);
- (zp) Skilled—Independent Overseas Student (Residence) (Class DD);

- (zq) Skilled—Australian-sponsored Overseas Student (Residence) (Class DE);
 - (zr) Contributory Parent (Migrant) (Class CA);
 - (zs) Contributory Aged Parent (Residence) (Class DG);
 - (zt) Skilled—Designated Area-sponsored (Residence) (Class CC);
 - (zu) Skilled (Residence) (Class VB);
 - (zv) Skilled (Migrant) (Class VE);
 - (zw) Skilled—Independent (Permanent) (Class SI);
 - (zx) Skilled—Nominated (Permanent) (Class SN).
- (3) The classes of visa referred to in sub-subparagraphs (1)(d)(i)(C) and (1)(e)(i) (A) are the following:
- (a) Business (Temporary) (Class TB);
 - (aa) Business Skills (Provisional) (Class UR);
 - (ab) Business Skills (Provisional) (Class EB);
 - (b) Cultural/Social (Temporary) (Class TE);
 - (c) Diplomatic (Temporary) (Class TF);
 - (d) Domestic Worker (Temporary) (Class TG);
 - (e) Educational (Temporary) (Class TH);
 - (f) Expatriate (Temporary) (Class TJ);
 - (g) Family Relationship (Temporary) (Class TL);
 - (ga) Graduate—Skilled (Temporary) (Class UQ);
 - (gb) Interdependency (Provisional) (Class UG);
 - (h) Interdependency (Temporary) (Class TM);
 - (i) Medical Practitioner (Temporary) (Class UE);
 - (ia) New Zealand Citizen Family Relationship (Temporary) (Class UP);
 - (j) Retirement (Temporary) (Class TQ);
 - (ja) Spouse (Provisional) (Class UF);
 - (jb) Partner (Provisional) (Class UF);
 - (k) Supported Dependant (Temporary) (Class TW);
 - (l) Working Holiday (Temporary) (Class TZ);
 - (m) Contributory Parent (Temporary) (Class UT);

Clause 773.214

- (n) Contributory Aged Parent (Temporary) (Class UU);
 - (o) Skilled—Designated Area-sponsored (Provisional) (Class UZ);
 - (p) Skilled—Independent Regional (Provisional) (Class UX);
 - (q) Skilled (Provisional) (Class VC);
 - (r) Skilled (Provisional) (Class VF);
 - (s) Skilled—Regional Sponsored (Provisional) (Class SP);
 - (t) Temporary Work (Long Stay Activity) (Class GB);
 - (u) Training and Research (Class GC);
 - (ua) Temporary Work (International Relations) (Class GD);
 - (v) Temporary Work (Entertainment) (Class GE);
 - (w) Special Program (Temporary) (Class TE).
- (4) The subclasses of visa referred to in sub-subparagraphs (1)(d)(i)(D) and (1)(e)(i)(B) are the following:
- (a) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (b) Subclass 457 (Temporary Work (Skilled)) visa.

773.214

In the case of an application by an applicant other than a person referred to in paragraph 773.213(1)(c), the Minister is satisfied that:

- (a) there are compelling reasons for granting a Subclass 773 visa to the applicant; and
- (b) the presence of the applicant in Australia would not be contrary to Australia's interests; and
- (c) the applicant has a good reason for not being the holder of a visa.

773.215

In the case of an application by an applicant referred to in paragraph 773.213(1)(c), the Minister is satisfied, on the basis of a written statement by the applicant, that:

- (a) the applicant has reasonable grounds for having failed to comply with the condition; and
- (b) there are compelling reasons for allowing the applicant to leave the place of immigration clearance with the permission of the clearance officer; and
- (c) the specified person referred to in that paragraph will arrive in Australia within 30 days of the applicant being allowed to leave the place of immigration clearance with the permission of the clearance officer.

773.216

- (1) Subject to subclause (2), if the applicant is an applicant referred to in paragraph 773.213(1)(e), (f) or (g), the application is not made within 5 years of the grant of a previous Subclass 773 visa that was granted to the applicant on the basis of the applicant being a person of that kind.
- (2) Subclause (1) does not apply to an applicant:
 - (a) if the applicant is a passenger on a vessel that has entered Australia because of matters beyond the control of the person in charge of the vessel; or
 - (b) if:
 - (i) there are compelling reasons for the grant of the visa to the applicant; and
 - (ii) the presence of the applicant in Australia would not be contrary to the interests of Australia; and
 - (iii) the applicant has a good reason for not being the holder of a visa.

773.217

If the application is made in Australia after immigration clearance, the applicant is the holder of a Subclass 773 visa that was granted to the holder as a person referred to in paragraph 773.213(1)(d).

773.22—Criteria to be satisfied at time of decision

773.221

If the application is made in Australia and the applicant seeks immigration clearance, the applicant continues to satisfy the criteria in clauses 773.212 to 773.216.

773.222

The applicant satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4005 and 4012; and
- (b) if the applicant is not a person described in sub-subparagraph 773.213(1)(d)(i)(A) or (B)—public interest criteria 4013 and 4014.

773.223

If the application is made in Australia and the applicant seeks immigration clearance, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

773.224

If the application is made in Australia after immigration clearance:

- (a) the Subclass 773 visa held by the applicant was granted subject to the satisfaction of a requirement or condition before the expiry of a period specified in the visa and that requirement has not been satisfied; and
- (b) the applicant establishes that it was not possible to satisfy the requirement or condition before expiry of the period; and
- (c) the Minister is satisfied that it would be unreasonable to require the person to leave Australia.

773.225

- (1) 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.
- (2) The Minister may waive the requirements of subclause (1) 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.

773.226

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

773.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

773.4—Circumstances applicable to grant

773.411

When visa is granted, the applicant must be:

- (a) in Australia and in immigration clearance; or
- (b) in Australia after immigration clearance.

773.5—When visa is in effect

773.511

Temporary visa:

- (a) either:

Clause 773.512

- (i) coming into effect on grant; or
- (ii) providing that if:
 - (A) the applicant holds another substantive visa, other than:
 - (I) a Special Purpose visa; or
 - (II) a Subclass 988 (Maritime Crew) visa; that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder to remain in Australia for a period specified by the Minister, not exceeding 30 days from the date of grant.

Note: If, when the other substantive visa ceases, the period from the grant of this visa to the time the other substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

773.512

If the visa holder holds another substantive visa at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

773.6—Conditions

773.611

Conditions applicable to the visa for which the applicant is apparently eligible.

Subclass 785—Temporary Protection

785.1—Interpretation

Note 1: For *member of the same family unit*, see subsection 5(1) of the Act.

Note 2: There are no interpretation provisions specific to this Part.

785.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

785.21—Criteria to be satisfied at time of application

785.211

(1) Subclause (2) or (3) is satisfied.

(2) The applicant:

- (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
- (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The applicant claims to be a member of the same family unit as a person:

- (a) to whom subclause (2) applies; and
- (b) who is an applicant for a Subclass 785 (Temporary Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

785.22—Criteria to be satisfied at time of decision

785.221

(1) Subclause (2) or (3) is satisfied.

Clause 785.222

- (2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

- (3) The Minister is satisfied that:
- (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
 - (b) the applicant mentioned in subclause (2) has been granted a Subclass 785 (Temporary Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

785.222

The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

785.223

- (1) One of subclauses (2) to (4) is satisfied.
- (2) The applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.
- (3) The applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested the examination mentioned in subclause (2).
- (4) The applicant is a person:

- (a) who is confirmed by a relevant medical practitioner to be pregnant; and
- (b) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
- (c) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
- (d) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

785.224

- (1) A relevant medical practitioner has considered:
 - (a) the results of any tests carried out for the purposes of the medical examination required under clause 785.222; and
 - (b) the radiological report (if any) required under clause 785.223 in respect of the applicant.
- (2) If the relevant medical practitioner:
 - (a) is not a Medical Officer of the Commonwealth; and
 - (b) considers that the applicant has 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;the relevant medical practitioner has referred any relevant results and reports to a Medical Officer of the Commonwealth.

785.225

If a Medical Officer of the Commonwealth considers that the applicant has 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, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

Clause 785.226

785.226

The applicant:

- (a) satisfies public interest criteria 4001 and 4003A; and
- (b) if the applicant had turned 18 at the time of application—
satisfies public interest criterion 4019.

785.227

The Minister is satisfied that the grant of the visa is in the national interest.

785.228

- (1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.
- (2) The Minister is satisfied that:
 - (a) the applicant is a member of the same family unit as an applicant to whom subclause 785.221(2) applies; and
 - (b) the applicant to whom subclause 785.221(2) applies has been granted a Subclass 785 (Temporary Protection) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 785.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

785.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

785.4—Circumstances applicable to grant

785.411

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

785.5—When visa is in effect

785.511

Temporary visa permitting the holder to remain in, travel to and enter Australia until:

- (a) in a case in which the holder of the temporary visa (the *first visa*) makes a valid application for another Subclass 785 (Temporary Protection) visa, or a Subclass 790 (Safe Haven Enterprise) visa, within 3 years after the grant of the first visa:
 - (i) if the application is withdrawn—the later of:
 - (A) the day the application is withdrawn; or
 - (B) the end of 3 years from the date of the grant of the first visa, or the end of any shorter period specified by the Minister, whichever occurs earlier; and
 - (ii) if the application is not withdrawn—the day the application is finally determined; and
- (b) in any other case—the earlier of:
 - (i) the end of 3 years from the date of grant of the first visa; and
 - (ii) the end of any shorter period, specified by the Minister, from the date of grant of the first visa.

785.6—Conditions

785.611

Conditions 8503, 8570 and 8565.

Subclass 786—Temporary (Humanitarian Concern)

786.1—Interpretation

Note: No interpretation provisions specific to this Part.

786.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

786.21—Criteria to be satisfied at time of application

786.211

The applicant is the holder of a Temporary Safe Haven (Class UJ) visa.

786.22—Criteria to be satisfied at time of decision

786.221

The Minister is satisfied that, for reasons of humanitarian concern, the applicant should be permitted to remain in Australia for a further period.

786.222

The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

786.223

- (1) Subject to subclause (2), the applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.
- (2) Subclause (1) does not apply to an applicant if the applicant:
 - (a) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
 - (b) is a person:
 - (i) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

786.224

The applicant satisfies public interest criterion 4001 or, if the applicant is unable to satisfy that criterion because the appropriate inquiries have not been completed, the applicant declares in writing, to the satisfaction of the Minister, that the applicant:

- (a) does not have a criminal record; and
- (b) is not a terrorist; and
- (c) has not engaged in crimes against humanity or war crimes; and
- (d) will assist Immigration by attempting to obtain any relevant records relating to the applicant.

Clause 786.225

786.225

The applicant satisfies public interest criteria 4002 and 4003A.

786.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

786.4—Circumstances applicable to grant

786.411

The applicant must be in Australia.

786.5—When visa is in effect

786.511

Temporary visa permitting the holder to remain in, but not re-enter, Australia until the earlier of:

- (a) the end of 36 months from the date of grant of the visa; and
- (b) the end of any shorter period determined in writing by the Minister from the date of grant of the visa.

786.6—Conditions

786.611

The holder must notify Immigration of any change in the holder's address at least 2 working days before the change.

786.612

The holder must not become involved in any disruptive activity, or violence, that may be a threat to the welfare of the Australian community or a group in the Australian community.

Subclass 790—Safe Haven Enterprise

790.1—Interpretation

Note 1: For *member of the same family unit*, see subsection 5(1) of the Act.

Note 2: There are no interpretation provisions specific to this Part.

790.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

790.21—Criteria to be satisfied at time of application

790.211

- (1) Subclause (2) or (3) is satisfied.
- (2) The applicant:
 - (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
 - (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

- (3) The applicant claims to be a member of the same family unit as a person:
 - (a) to whom subclause (2) applies; and
 - (b) who is an applicant for a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

790.22—Criteria to be satisfied at time of decision

790.221

- (1) Subclause (2) or (3) is satisfied.

Clause 790.222

- (2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

- (3) The Minister is satisfied that:
- (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
 - (b) the applicant mentioned in subclause (2) has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

790.222

The applicant has undergone a medical examination carried out by any of the following (a **relevant medical practitioner**):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

790.223

- (1) One of subclauses (2) to (4) is satisfied.
- (2) The applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.
- (3) The applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested the examination mentioned in subclause (2).
- (4) The applicant is a person:

- (a) who is confirmed by a relevant medical practitioner to be pregnant; and
- (b) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
- (c) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
- (d) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

790.224

- (1) A relevant medical practitioner has considered:
 - (a) the results of any tests carried out for the purposes of the medical examination required under clause 790.222; and
 - (b) the radiological report (if any) required under clause 790.223 in respect of the applicant.
- (2) If the relevant medical practitioner:
 - (a) is not a Medical Officer of the Commonwealth; and
 - (b) considers that the applicant has 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;the relevant medical practitioner has referred any relevant results and reports to a Medical Officer of the Commonwealth.

790.225

If a Medical Officer of the Commonwealth considers that the applicant has 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, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

Clause 790.226

790.226

The applicant:

- (a) satisfies public interest criteria 4001 and 4003A; and
- (b) if the applicant had turned 18 at the time of application—
satisfies public interest criterion 4019.

790.227

The Minister is satisfied that the grant of the visa is in the national interest.

790.228

- (1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.
- (2) The Minister is satisfied that:
 - (a) the applicant is a member of the same family unit as an applicant to whom subclause 790.221(2) applies; and
 - (b) the applicant to whom subclause 790.221(2) applies has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 790.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

790.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

790.4—Circumstances applicable to grant

790.411

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

790.5—When visa is in effect

790.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until:

- (a) in a case in which the holder of the temporary visa (the *first visa*) makes a valid application for another Subclass 790 (Safe Haven Enterprise) visa or a Subclass 785 (Temporary Protection) visa, within 5 years after the grant of the first visa:
 - (i) if the application is withdrawn—the later of the day the application is withdrawn, and the end of 5 years from the date of the grant of the first visa; and
 - (ii) if the application is not withdrawn—the day the application is finally determined; or
- (b) in any other case—the end of 5 years from the date of grant of the first visa.

790.6—Conditions

790.611

Conditions 8565 and 8570.

Note: There is nothing in the Act or these regulations which restricts the ability of the holder of the visa to study or work as he or she sees fit.

Subclass 800—Territorial Asylum

800.1—Interpretation

Note: No interpretation provisions specific to this Part.

800.2—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.

800.21—Criteria to be satisfied at time of application

800.211

The applicant has been granted territorial asylum in Australia by instrument of a Minister.

800.22—Criteria to be satisfied at time of decision

800.221

The applicant continues to satisfy the criterion in clause 800.211.

800.221A

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

800.222

- (1) Each person who is a member of the family unit of the applicant and who is also an applicant for a Subclass 800 visa:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
 - (b) if the person had turned 18 at the time of application—
satisfies public interest criterion 4019.
- (2) Each person who is a member of the family unit of the applicant and is not an applicant for a Subclass 800 visa 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.

800.223

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.

800.3—Secondary criteria

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

800.31—Criteria to be satisfied at time of application

800.311

The applicant is a member of the family unit of a person who satisfies or has satisfied the primary criteria in Subdivision 800.21.

Clause 800.321

800.32—Criteria to be satisfied at time of decision

800.321

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 800 visa.

800.322

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

800.323

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

800.4—Circumstances applicable to grant

800.411

The applicant must be in the migration zone when the visa is granted.

800.5—When visa is in effect

800.511

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

800.6—Conditions: Nil.

Subclass 801—Partner

801.1—Interpretation

801.111

In this Part:

sponsoring partner means:

- (a) an Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for the Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa as the spouse or de facto partner of the applicant; or
- (b) for a person to whom the Minister has decided, under section 345, 351, 417 or 501J of the Act, to grant a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa—an 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* and *long-term partner relationship* 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).

801.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

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

801.22—Criteria to be satisfied at time of decision

801.221

- (1) The applicant meets the requirements of subclause (2), (2A), (3), (4), (5), (6) or (8).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 820 visa; and
 - (b) the applicant continues to be sponsored for the grant of the Subclass 820 (Partner) visa by:
 - (i) the sponsoring partner; or
 - (ii) the Australian citizen, Australian permanent resident or eligible New Zealand citizen who sponsored the applicant for that visa; and
 - (c) the applicant is the spouse or de facto partner of the sponsoring partner; and
 - (d) subject to subclauses (6A) and (7), at least 2 years have passed since the application was made.
- (2A) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 417 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 (6A) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).
- (3) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221(2).
- (4) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221(3).

- (5) An applicant meets the requirements of this subclause if the applicant:
- (a) is the holder of a Subclass 820 visa; and
 - (b) would meet the requirements of subclause (2) or (2A) except that 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; and
 - (d) has developed close business, cultural or personal ties in Australia.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 820 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) either or both of the following circumstances applies:
 - (i) either or both of the following:
 - (A) the applicant;
 - (B) a dependent child 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

Clause 801.223

- (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.

- (6A) Paragraphs (2)(d) 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.
- (7) Nothing in paragraphs (2)(d) and (2A)(c) prevents the Minister, less than 2 years after the application is made:
- (a) refusing to grant a Subclass 801 visa; or
 - (d) approving the grant of a Subclass 801 visa to an applicant who meets the requirements of subclause (5) or (6).
- (8) The applicant meets the requirements of this subclause:
- (a) if the applicant held a Subclass 820 (Partner) visa that ceased on notification of a decision of the Minister to refuse a Subclass 801 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 801 visa apart from the criterion that the applicant hold a Subclass 820 visa; or
 - (ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa.

801.223

- (1) The applicant:
- (a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

- (2) Paragraph (1)(a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant satisfied the requirements of subclause 820.211(3), (4) or (5).

801.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 801 visa is a person who:
- (a) subject to subclause (3)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
 - (c) satisfies public interest criterion 4020.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 801 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.
- (3) Paragraph (1)(a) does not apply to an applicant who meets the requirements of clause 801.321 as the holder of a Subclass 820 visa granted on the basis that the applicant:
- (a) was the dependent child of a person who met the requirements of subclause 820.211(3), (4) or (5); and
 - (b) entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

801.225

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

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(c) made a combined application with the applicant—
public interest criteria 4015 and 4016 are satisfied in relation to the
additional applicant.

801.226

The applicant satisfies public interest criteria 4020 and 4021.

801.3—Secondary criteria

Note: A dependent child, or member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant meeting the primary criteria.

801.31—Criteria to be satisfied at time of application

801.311

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant is:
 - (a) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
 - (b) a member of the family unit of a person who:
 - (i) is the holder of, or has been the holder of, a Subclass 300 (Prospective Marriage) visa; and
 - (ii) has applied for a Partner (Residence) (Class BS) visa;and the Minister has not decided to grant or refuse to grant a visa to the person.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 417 or 501J of the Act, to grant to the applicant; and

- (b) the applicant is a member of the family unit of a person who:
 - (i) is the holder of a Subclass 820 (Partner) visa; and
 - (ii) has applied for a Partner (Residence) (Class BS) visa; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

801.32—Criteria to be satisfied at time of decision

801.321

An applicant meets the requirements of this clause if:

- (a) any of the following applies:
 - (i) the applicant is the holder of:
 - (A) a Subclass 445 (Dependent Child) visa; or
 - (C) a Subclass 820 (Partner) visa;
 - (ii) the applicant was the holder of:
 - (A) a Subclass 445 visa; or
 - (B) a Subclass 820 visa;which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child or of whose family unit the applicant is a member;
 - (iii) the applicant is a person:
 - (A) who holds:
 - (I) a Subclass 445 (Dependent Child) visa; or
 - (II) a Subclass 820 (Spouse) visa; or
 - (III) a Subclass 820 (Partner) visa;which the Minister has decided, under section 345, 351, 417 or 501J of the Act, to grant to the applicant; and
 - (B) who, at the time the visa mentioned in sub-subparagraph (A) was granted, was the dependent child, or a member of the family

Clause 801.323

unit, as the case requires, of another person who was the holder of a Subclass 445 (Dependent Child) visa, Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa; and

(b) that other person has been granted a Subclass 801 visa.

801.323

(1) The applicant:

(a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and

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

(2) Paragraph (1)(a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant met the requirements of clause 820.311 as the dependent child of a person:

(a) who satisfied the requirements of subclause 820.211(3), (4) or (5); and

(b) who entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

801.324

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

801.325

The applicant satisfies public interest criteria 4020 and 4021.

801.4—Circumstances applicable to grant

801.411

The applicant must be:

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

(b) outside Australia;
when the visa is granted.

801.5—When visa is in effect

801.511

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

801.6—Conditions: Nil.