



Migration Regulations 1994

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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

Prepared by the Office of Parliamentary Counsel, Canberra

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 802—Child

802.1—Interpretation

In this Part:

letter of support means a letter of support provided by a State or Territory government welfare authority that:

- (a) supports a child's application for permanent residency in Australia; and
- (b) sets out:
 - (i) the circumstances leading to the involvement of a State or Territory government welfare authority in the welfare of the child; and
 - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
- (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
- (d) shows the letterhead of the State or Territory government welfare authority; and
- (e) is signed by a manager or director employed by the State or Territory government welfare authority.

Note: ***eligible New Zealand citizen*** is defined in regulation 1.03.

802.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.21—Criteria to be satisfied at time of application

802.211

If the applicant is a person to whom section 48 of the Act applies, the applicant:

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (b) since last applying for a substantive visa, has become a dependent child of:
 - (i) an Australian citizen; or
 - (ii) the holder of a permanent visa; or
 - (iii) an eligible New Zealand citizen.

802.212

- (1) The applicant:
 - (a) is a dependent child of a person who is an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
 - (b) subject to subclause (2), has not turned 25.
- (1A) If the applicant is a step-child of the person mentioned in paragraph (1)(a), the applicant is a step-child within the meaning of paragraph (b) of the definition of *step-child*.
- (2) Paragraph (1)(b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b)(ii) of the definition of *dependent child*.

802.213

- (1) If the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 802.212(1) is an adoptive parent of the applicant, the applicant:
 - (a) was under 18 when the adoption took place; and

- (b) meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant meets the requirements of this subclause if the adoption of the applicant was in accordance with the Adoption Convention and an adoption compliance certificate is in force in relation to the adoption.
- (3) The applicant meets the requirements of this subclause if the adoptive parent was not an Australian citizen, holder of a permanent visa or New Zealand citizen when the adoption took place, but subsequently became an Australian citizen, holder of a permanent visa or New Zealand citizen.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
 - (b) before the adoption, a competent authority in Australia approved the adoptive parent as a suitable adoptive parent, or the adoptive parent and the adoptive parent's spouse or de facto partner as suitable adoptive parents, for the applicant.
- (5) The applicant meets the requirements of this subclause if:
 - (a) the applicant was adopted in an overseas country and the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or New Zealand citizen; and
 - (b) either:
 - (i) when the adoption took place, the adoptive parent had been residing overseas for more than 12 months; or
 - (ii) the Minister is satisfied that, because of compelling or compassionate circumstances, subparagraph (i) should not apply to the applicant; and
 - (c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and

Clause 802.214

- (d) the adoptive parent has, or the adoptive parent and the adoptive parent's spouse or de facto partner have, lawfully acquired full and permanent parental rights by the adoption.

802.214

- (1) If the applicant has turned 18:
 - (a) the applicant:
 - (i) is not engaged to be married; and
 - (ii) does not have a spouse or de facto partner; and
 - (iii) has never had a spouse or de facto partner; and
 - (b) the applicant is not engaged in full-time work; and
 - (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.
- (2) Paragraph (1)(c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b)(ii) of the definition of *dependent child*.

802.215

The applicant is:

- (a) a person whose application is supported by a letter of support from a State or Territory government welfare authority; or
- (b) sponsored by a person who:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and
 - (iii) is:
 - (A) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212(1)(a); or

- (B) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212(1)(a).

802.216

Clauses 802.211 to 802.214 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

802.22—Criteria to be satisfied at time of decision

802.221

- (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:
 - (a) continues to satisfy the criterion in clause 802.212; or
 - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- (2) In the case of an applicant who had turned 18 at the time of application:
 - (a) the applicant:
 - (i) continues to satisfy the criterion in clause 802.212; or
 - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
 - (b) the applicant continues to satisfy the criterion in clause 802.214.

802.222

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

Clause 802.223

802.223

The applicant:

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

802.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 802 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 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 802 visa is a person who 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.

802.225

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

802.226

The sponsorship mentioned in clause 802.215 has been approved by the Minister and is still in force.

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

802.226A

- (1) Clauses 802.221 to 802.226 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- (2) If the application for a visa is supported by a letter of support from a State or Territory government welfare authority:
 - (a) the applicant satisfies:
 - (i) the criteria in subclauses (3), (4), (5) and (6); and
 - (ii) public interest criteria 4001, 4002, 4003, 4018, 4020 and 4021; and
 - (b) the Minister is satisfied that:
 - (i) the grant of visa is in the public interest; and
 - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (3) 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.
- (4) The applicant:
 - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and

Clause 802.226A

- (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.
- (5) A relevant medical practitioner:
 - (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (3); and
 - (ii) the radiological report (if any) required under subclause (4) in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and 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, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- (6) 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.

802.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person. However, if an application for a visa is supported by a letter of

support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.31—Criteria to be satisfied at time of application

802.311

Each of the following is satisfied:

- (a) the applicant is a member of the family unit of a person to whom paragraph 802.215(b) applies;
- (b) the applicant is a member of the family unit of a person who:
 - (i) has applied for a Child (Residence) (Class BT) visa; and
 - (ii) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 802.21;
- (c) the Minister has not decided to grant or refuse to grant the visa to that other person.

802.312

The sponsorship mentioned in clause 802.215 of the person who satisfies the primary criteria includes sponsorship of the applicant.

802.32—Criteria to be satisfied at time of decision

802.321

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 802 visa.

802.322

The applicant:

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

Clause 802.323

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

802.323

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

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

802.324

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

802.325

The sponsorship mentioned in clause 802.312 has been approved by the Minister and is still in force.

802.326

The applicant satisfies public interest criteria 4020 and 4021.

802.327

Clauses 802.321 to 802.325 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

802.328

- (1) If the applicant's application for a visa is supported by a letter of support from a State or Territory government welfare authority and the applicant is an applicant to whom regulation 2.08 applies:
 - (a) the applicant must:
 - (i) be a member of the family unit of a person to whom paragraph 802.215 (a) applies; and
 - (ii) satisfy subclauses (2), (3), (4) and (5); and
 - (iii) satisfy public interest criteria 4018; and
 - (b) the Minister must be satisfied that:
 - (i) the grant of visa is in the public interest; and
 - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (2) 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.
- (3) The applicant:
 - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and

Clause 802.411

- (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.
- (4) A relevant medical practitioner:
 - (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (2); and
 - (ii) the radiological report (if any) required under subclause (3) in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and 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, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- (5) 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.

802.4—Circumstances applicable to grant

802.411

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

802.5—When visa is in effect

802.511

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

802.6—Conditions: Nil.

Subclass 804—Aged Parent

804.1—Interpretation

804.111

In this Part:

adult child, in relation to an applicant, means a child of the applicant who has turned 18.

Note: *Aged parent, eligible New Zealand citizen* and *outstanding* are defined in regulation 1.03.

804.2—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.

804.21—Criteria to be satisfied at time of application

804.211

- (1) If the applicant is a person to whom section 48 of the Act applies, the applicant:
 - (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
 - (b) since last applying for a substantive visa, has become an aged parent of:
 - (i) an Australian citizen; or
 - (ii) the holder of a permanent visa; or
 - (iii) an eligible New Zealand citizen.
- (2) The applicant is:
 - (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or

- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa.

804.212

- (1) The applicant is:
 - (a) in the case of an applicant who is not the holder of a substituted Subclass 600 visa:
 - (i) the aged parent of a person (the **child**) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
 - (ii) sponsored in accordance with subclause (2) or (3); or
 - (b) in the case of an applicant who is the holder of a substituted Subclass 600 visa:
 - (i) the parent of a person (the **child**) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
 - (ii) sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
 - (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
 - (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; or

Clause 804.213

- (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen; or
- (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, or settled Australian permanent resident, or settled eligible New Zealand citizen; or
- (d) a community organisation.

804.213

If the applicant is not the holder of a substantive visa, the applicant satisfies Schedule 3 criterion 3002.

804.214

If the applicant is not the holder of a substituted Subclass 600 visa, the applicant satisfies the balance of family test.

804.22—Criteria to be satisfied at time of decision

804.221

The applicant either:

- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212(1)(a); or
- (b) if the applicant is the holder of a substituted Subclass 600 visa at the time of application—is the parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212(1)(a).

804.222

A sponsorship of the kind mentioned in clause 804.212 is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 804.212.

804.224

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

804.225

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021
2	the holder of a substituted Subclass 600 visa at the time of application	4001, 4002, 4003, 4007, 4009, 4010, 4019, 4020 and 4021

804.226

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 804 Aged Parent

Clause 804.227

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and (b) if the person had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010 and 4020; and (b) if the person had turned 18 at the time of application—4019

- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

804.227

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

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

804.228

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

804.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

804.31—Criteria to be satisfied at time of application

804.311

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

- (a) has applied for an Aged Parent (Residence) (Class BP) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 804.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

Clause 804.312

804.312

A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

804.32—Criteria to be satisfied at time of decision

804.321

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 804 visa.

804.322

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 804.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019

804.323

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

804.324

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

804.325

A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
 - (b) includes sponsorship of the applicant;
- whether or not the sponsor was the sponsor at the time of application.

804.326

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

804.4—Circumstances applicable to grant

804.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

Clause 804.511

804.5—When visa is in effect

804.511

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

804.6—Conditions: Nil.

Subclass 808—Confirmatory (Residence)

808.1—Interpretation

Note: No interpretation provisions specific to this Part.

808.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

808.21—Criteria to be satisfied at time of application

808.211

The applicant:

- (a) is the holder of a Resident Return (Temporary) (Class TP) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa at the time he or she was granted the Resident Return (Temporary) (Class TP) visa; or
- (b) is a person who is the holder of an Emergency (Temporary) (Class TI) visa and:
 - (i) either:
 - (A) satisfies the remaining criteria, within the meaning of Part 302; or
 - (B) is unable to satisfy those criteria, but is able to substantiate a claim to be an Australian permanent resident; or
 - (ii) is a member of the family unit of a person who:
 - (A) is the holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa; and
 - (B) has satisfied the primary criteria; or
- (c) is the holder of a Border (Temporary) (Class TA) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa

Clause 808.212

- when he or she was granted the Border (Temporary) (Class TA) visa; or
- (d) is the holder of a Class 301 (Australian requirement) entry permit or visa granted under the Migration (1993) Regulations and has satisfied the criteria referred to in paragraph 301.321 (b) of Schedule 2 of those Regulations.

808.212

In the case of an applicant who is the holder of a Subclass 302 visa, all members of the family unit of the applicant satisfy the public interest criteria applicable to them.

808.22—Criteria to be satisfied at time of decision

808.221

In the case of an applicant who is a member of the family unit of a person referred to in subparagraph 808.211(b)(ii), the person referred to in that subparagraph holds a Confirmatory (Residence) (Class AK) visa.

808.222

The applicant satisfies public interest criterion 4021.

808.3—Secondary criteria: Nil.

Note: All applicants must meet the primary criteria.

808.4—Circumstances applicable to grant

808.411

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

Note: The second instalment of the visa application charge (if any), must be paid before the visa can be granted.

808.5—When visa is in effect

808.511

Visa granted on basis of satisfaction of paragraph 808.211(a) or (c): permanent visa.

808.512

Visa granted on basis of satisfaction of paragraph 808.211(b) or (d): permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

808.6—Conditions: Nil.

Subclass 820—Partner

820.1—Interpretation

820.111

In this Part:

court means a Court of Australia or an external Territory.

original sponsor means the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for a Subclass 300 (Prospective Marriage) visa as the person whom the applicant intended to marry after entry into Australia.

sponsoring partner means:

- (a) in subclauses 820.211(2) and (2B) and clause 820.221:
 - (i) for an applicant who is, or was, the holder of a Subclass 300 (Prospective Marriage) visa:
 - (A) the original sponsor for the applicant; or
 - (B) the subsequent sponsor for the applicant; or
 - (ii) for any other applicant—the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant; and
- (b) in any other provision of this Part:
 - (i) for an applicant who is, or was, the holder of a Subclass 300 (Prospective Marriage) visa—the original sponsor for the applicant; or
 - (ii) for any other applicant—the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant.

subsequent sponsor means a person who:

- (a) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
- (b) is not the original sponsor for the applicant; and
- (c) is the spouse or de facto partner of the applicant.

Note: ***eligible New Zealand citizen, SOFA forces civilian component member*** and ***SOFA forces member*** are defined in regulation 1.03. For de facto ***partner***, see section 5CB of the Act (also see regulation 1.09A). For ***spouse***, see section 5F of the Act (also see regulation 1.15A).

820.2—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.

820.21—Criteria to be satisfied at time of application

820.211

- (1) The applicant:
 - (a) is not the holder of a Subclass 771 (Transit) visa; and
 - (b) meets the requirements of subclause (2), (5), (6), (7), (8) or (9).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the spouse or de facto partner of a person who:
 - (i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) is not prohibited by subclause (2B) from being a sponsoring partner; and
 - (c) the applicant is sponsored:
 - (i) if the applicant's spouse or de facto partner has turned 18—by the spouse or de facto partner; or

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- (ii) if the applicant's spouse has not turned 18—by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (d) in the case of an applicant who is not the holder of a substantive visa—either:
 - (i) the applicant:
 - (A) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause (2A); and
 - (B) satisfies Schedule 3 criterion 3002; or
 - (ii) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.
- (2A) An applicant meets the requirements of this subclause if:
 - (a) the applicant is:
 - (i) a SOFA member; or
 - (ii) a SOFA forces civilian component member; or
 - (b) the applicant:
 - (i) is a dependent child of a person referred to in paragraph (a); and
 - (ii) holds a valid national passport and certificate that he or she is a dependant of a SOFA forces member or a SOFA forces civilian component member, as the case requires.
- (2B) The spouse or de facto partner of the applicant is prohibited from being a sponsoring partner if:
 - (a) the spouse or de facto partner is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and

- (b) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman, and that relationship had not been declared to Immigration.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia as the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
 - (d) the applicant ceased to hold a substantive visa after marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18—by the spouse; or
 - (ii) if the applicant's spouse has not turned 18—by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (6) An applicant meets the requirements of this subclause if the applicant:
 - (a) is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and

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- (c) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18—by the spouse;
or
 - (ii) if the applicant's spouse has not turned 18—by a parent
or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian
permanent resident or an eligible New Zealand
citizen; and
 - (d) continues to be the spouse of the sponsoring partner.
- (7) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the sponsoring partner has died; and
 - (d) the applicant satisfies the Minister that the applicant would have continued to be the spouse of the sponsoring partner if the sponsoring partner had not died; and
 - (e) the applicant has developed close business, cultural or personal ties in Australia.
- (8) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the relationship between the applicant and the sponsoring partner has ceased; and
 - (d) any 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;

- (iii) 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.
- (9) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant has been the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (c) while that visa was valid, the applicant married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (d) the relationship between the applicant and the sponsoring partner has ceased; and
 - (e) any 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (iii) 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.

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

820.212

If:

- (a) the applicant is the holder of:
 - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
 - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or

Clause 820.221

- (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
- (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
- (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.22—Criteria to be satisfied at time of decision

820.221

- (1) In the case of an applicant referred to in subclause 820.211(2), (5), (6), (7), (8) or (9), the applicant either:
 - (a) continues to meet the requirements of the applicable subclause; or
 - (b) meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant:
 - (a) would continue to meet the requirements of subclause 820.211(2), (5) or (6) except that the sponsoring partner has died; and
 - (b) 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
 - (c) has developed close business, cultural or personal ties in Australia.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant would continue to meet the requirements of subclause 820.211(2), (5) or (6) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (b) 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
 - (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.

- (4) The sponsorship mentioned in paragraph 820.211(2)(c), (5)(f) or (6)(c) has been approved by the Minister and is still in force.

820.221A

Unless the applicant:

- (a) is, or has been, the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) is seeking to remain permanently in Australia on the basis of the applicant's marriage to the person who was specified as the intended spouse in the application that resulted in the grant of that Subclass 300 (Prospective Marriage) visa;
- the sponsorship of the applicant under clause 820.211 has been approved by the Minister.

Note: Regulations 1.20J, 1.20KA and 1.20KB limit the Minister's discretion to approve sponsorships.

Clause 820.223

820.223

- (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 referred to in subclause 820.211(5).

820.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 820 visa is a person who:
 - (a) subject to subclause (2)—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.
- (1A) Each member of the family unit of the applicant who is not an applicant for a Subclass 820 visa is a person who:
 - (a) subject to subclause (2)—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.
- (2) Paragraphs (1)(a) and (1A) (a) do not apply to an applicant who:
 - (a) is a dependent child of an applicant referred to in subclause 820.211(5); and
 - (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.

820.225

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

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

820.226

The applicant satisfies public interest criteria 4020 and 4021.

820.3—Secondary criteria

Note: A dependent child, or a 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.

820.31—Criteria to be satisfied at time of application

820.311

The applicant is:

- (a) either:
 - (i) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
 - (ii) a member of the family unit of a person who:
 - (A) is the holder of, or has been the holder of, a Subclass 300 (Prospective Marriage) visa; and
 - (B) has applied for a Partner (Residence) (Class BS) visa; and
- (b) the sponsorship (if any) in respect of that person includes the applicant; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

Clause 820.312

820.312

In the case of an applicant who is not the holder of a substantive visa—either:

- (a) the applicant:
 - (i) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause 820.211(2A); and
 - (ii) satisfies Schedule 3 criterion 3002; or
- (b) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.

820.313

If:

- (a) the applicant is the holder of:
 - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
 - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
 - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.32—Criteria to be satisfied at time of decision

820.321

In the case of an applicant referred to in clause 820.311, the applicant:

- (a) is a person who is dependent on, or a member of the family unit of, another person who having satisfied the primary criteria, is the holder of a Subclass 820 (Partner) visa (the *person who satisfies the primary criteria*); or
- (b) is a person to whom each of the following applies:
 - (i) the person made a combined application with the person who satisfies the primary criteria;
 - (ii) subsequent to the combined application being made, the person was found by the Minister not to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria;
 - (iii) subsequent to the person who satisfies the primary criteria being granted a Subclass 820 (Partner) visa and a Subclass 801 (Partner) visa—the Tribunal found the person to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria.

820.323

- (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 referred to in subclause 820.311 who:
 - (a) is a dependent child of another applicant referred to in subclause 820.211(5); and
 - (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.

Clause 820.324

820.324

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

820.325

The sponsorship mentioned in paragraph 820.311(b) has been approved by the Minister and is still in force.

820.326

The applicant satisfies public interest criteria 4020 and 4021.

820.4—Circumstances applicable to grant

820.411

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

820.5—When visa is in effect

820.511

Temporary visa permitting the holder to travel to and enter Australia until:

- (a) the holder is notified that his or her application for a Subclass 801 (Partner) visa has been decided; or
- (b) that application is withdrawn.

820.6—Conditions: Nil.

Subclass 834—Permanent Resident of Norfolk Island

834.1—Interpretation

Note: No interpretation provisions specific to this Part.

834.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

834.21—Criteria to be satisfied at time of application

834.211

The applicant is a permanent resident of Norfolk Island and holds, and has shown an officer, a passport that is in force and is endorsed with an authority to reside indefinitely on Norfolk Island.

834.22—Criteria to be satisfied at time of decision

834.221

The applicant continues to meet the requirements set out in clause 834.211.

834.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

834.4—Circumstances applicable to grant

834.411

At the time of grant the applicant must be in Australia and in immigration clearance.

Clause 834.511

834.5—When visa is in effect

834.511

Permanent visa permitting the holder to remain in Australia indefinitely.

834.6—Conditions: Nil.

Subclass 835—Remaining Relative

835.1—Interpretation

835.111

In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: ***Australian relative, dependent child, eligible New Zealand citizen*** and ***settled*** are defined in regulation 1.03. ***Remaining relative*** is defined in regulation 1.15. ***de facto partner*** is defined in section 5CB of the Act (also see regulations 1.09A and 2.03A) and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

835.2—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 only satisfy the secondary criteria.

835.21—Criteria to be satisfied at time of application

835.211

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

Clause 835.212

835.212

The applicant is a remaining relative of an Australian relative.

835.213

The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

835.22—Criteria to be satisfied at time of decision

835.221

The applicant continues to satisfy the criterion in clause 835.212.

835.222

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

835.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

835.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 835 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 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 835 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

835.225

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

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

835.226

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

Clause 835.227

835.227

A sponsorship of the kind mentioned in clause 835.213, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 835.213.

835.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

835.31—Criteria to be satisfied at time of application

835.311

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

- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 835.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

835.312

A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

835.32—Criteria to be satisfied at time of decision

835.321

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 835 visa.

835.322

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

835.323

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

835.324

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

835.325

A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and

Clause 835.411

(b) includes sponsorship of the applicant;
whether or not the sponsor was the sponsor at the time of
application.

835.4—Circumstances applicable to grant

835.411

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

Note: The second instalment of the visa application charge must be paid
before the visa can be granted.

835.5—When visa is in effect

835.511

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

835.6—Conditions: Nil.

Subclass 836—Carer

836.1—Interpretation

836.111

In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *carer* is defined in regulation 1.15AA.

836.2—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 only satisfy the secondary criteria.

836.21—Criteria to be satisfied at time of application

836.211

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

836.212

The applicant claims to be the carer of an Australian relative.

Clause 836.213

836.213

The applicant is sponsored

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

836.22—Criteria to be satisfied at time of decision

836.221

The applicant is a carer of a person referred to in clause 836.212.

836.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

836.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 836 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 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 836 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

836.225

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

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

836.226

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

836.227

The sponsorship mentioned in clause 836.213 has been approved by the Minister and is still in force.

836.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

836.31—Criteria to be satisfied at time of application

836.311

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

- (a) has applied for an Other Family (Residence) (Class BU) visa;
and
- (b) on the basis of the information provided in the application,
appears to satisfy the criteria in Subdivision 836.21;

and the Minister has not decided to grant or refuse to grant the visa
to that other person.

836.312

The sponsorship mentioned in clause 836.213 of the person who
satisfies the primary criteria includes sponsorship of the applicant.

836.32—Criteria to be satisfied at time of decision

836.321

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 836 visa.

836.322

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004,
4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—
satisfies public interest criterion 4019.

836.324

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

836.325

The sponsorship mentioned in clause 836.312 has been approved by the Minister and is still in force.

836.4—Circumstances applicable to grant

836.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

836.5—When visa is in effect

836.511

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

836.6—Conditions: Nil.

Subclass 837—Orphan Relative

837.1—Interpretation

837.111

In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *dependent child*, *eligible New Zealand citizen*, *relative* and *settled* are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, de facto *partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

837.2—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 only satisfy the secondary criteria.

837.21—Criteria to be satisfied at time of application

837.211

If the applicant is a person to whom section 48 of the Act applies, the applicant:

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (b) since last applying for a substantive visa:
 - (i) has become an orphan relative of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (ii) became an orphan relative of the person mentioned in subparagraph (i) and is no longer an orphan relative

only because the applicant has been adopted by that person.

837.212

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

837.213

The applicant:

- (a) is an orphan relative of an Australian relative of the applicant; or
- (b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).

837.214

The applicant is sponsored:

- (a) by the Australian relative, if the relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and

Clause 837.221

- (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
- (iii) cohabits with the Australian relative.

837.22—Criteria to be satisfied at time of decision

837.221

The applicant:

- (a) continues to satisfy the criterion in clause 837.213; or
- (b) does not continue to satisfy that criterion only because the applicant has turned 18.

837.222

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

837.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

837.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 837 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 837 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

837.225

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

837.226

The sponsorship mentioned in clause 837.214 has been approved by the Minister and is still in force.

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

837.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

837.31—Criteria to be satisfied at time of application

837.311

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

- (a) has applied for a Child (Residence) (Class BT) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 837.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

837.312

The sponsorship mentioned in clause 837.214 of the person who satisfies the primary criteria includes sponsorship of the applicant.

Clause 837.321

837.32—Criteria to be satisfied at time of decision

837.321

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 837 visa.

837.322

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

837.323

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

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

837.324

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

837.325

The sponsorship mentioned in clause 837.312 has been approved by the Minister and is still in force.

837.4—Circumstances applicable to grant

837.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

837.5—When visa is in effect

837.511

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

837.6—Conditions: Nil.

Subclass 838—Aged Dependent Relative

838.1—Interpretation

838.111

In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *aged dependent relative, dependent child, eligible New Zealand citizen* and *settled* are defined in regulation 1.03.

838.2—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.

838.21—Criteria to be satisfied at time of application

838.211

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

838.212

The applicant is an aged dependent relative of an Australian relative.

838.213

The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

838.22—Criteria to be satisfied at time of decision

838.221

The applicant continues to satisfy the criterion in clause 838.212.

838.222

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

Clause 838.223

838.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021.

838.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 838 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 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 838 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) 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.

838.225

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

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant—

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

838.226

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

838.227

The sponsorship mentioned in clause 838.213 has been approved by the Minister and is still in force.

838.3—Secondary criteria

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

838.31—Criteria to be satisfied at time of application

838.311

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

- (a) has applied for an Other Family (Residence) (Class BU) visa;
and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 838.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

838.312

The sponsorship mentioned in clause 838.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

838.32—Criteria to be satisfied at time of decision

838.321

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 838 visa.

Clause 838.322

838.322

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

838.323

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

838.324

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

838.325

The sponsorship mentioned in clause 838.312 has been approved by the Minister and is still in force.

838.4—Circumstances applicable to grant

838.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

838.5—When visa is in effect

838.511

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

838.6—Conditions: Nil.

Subclass 851—Resolution of Status

851.1—Interpretation

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

851.2—Primary criteria

Note: The primary criteria have to be satisfied by all applicants for Subclass 851 visas.

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

851.22—Criteria to be satisfied at time of decision

851.221

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.

851.222

The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner 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.

851.223

A relevant medical practitioner:

- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under clause 851.221; and
 - (ii) the radiological report (if any) required under clause 851.222 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and 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, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

851.224

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 851.225

851.225

The applicant:

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

851.226

If the applicant was taken to have made an application because the criteria in item 4 of the table in subregulation 2.07AQ(3) were satisfied, the applicant and the other person mentioned in that item are members of the family unit.

851.227

If the criteria in item 3 of the table in paragraph 1127AA(3)(c) of Schedule 1 were satisfied, the applicant and the other person mentioned in that item are members of the same family unit.

851.3—Secondary criteria

Note: There are no secondary criteria for the grant of a Subclass 851 visa.

851.4—Circumstances applicable to grant

851.411

The applicant must be in Australia.

851.5—When visa is in effect

851.511

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

851.6—Conditions: Nil.

Subclass 852—Referred Stay (Permanent)

852.1—Interpretation

Note 1: Regulation 1.03 provides that *member of the immediate family* has the meaning set out in regulation 1.12AA.

Note 2: There are no interpretation provisions specific to this Part.

852.2—Primary criteria

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

852.21—Criteria to be satisfied at time of application

852.211

The applicant is taken to have made a valid application for a Referred Stay (Permanent) (Class DH) visa under subregulation 2.07AK(2) in accordance with subregulation 2.07AK(3).

852.22—Criteria to be satisfied at time of decision

852.222

The applicant:

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

Clause 852.223

852.223

The requirements of paragraphs 2.07AK(3)(d), (e) and (f) continue to be met in relation to the applicant.

852.224

Each member of the immediate family of the applicant who is an applicant for a Subclass 852 (Referred Stay (Permanent)) visa is a person who:

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

852.3—Secondary criteria

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

852.31—Criteria to be satisfied at time of application

852.311

The applicant is a member of the immediate family of a person who is taken, under subregulation 2.07AK(2), to have made a valid application for a Referred Stay (Permanent) (Class DH) visa in accordance with subregulation 2.07AK(3).

Note: See regulation 2.07AK for how an application for a Referred Stay (Permanent) (Class DH) visa is taken to have been validly made.

852.312

The Minister has not decided to grant or refuse to grant a Subclass 852 (Referred Stay (Permanent)) visa to the person mentioned in clause 852.311.

852.32—Criteria to be satisfied at time of decision

852.321

The applicant:

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

852.322

The applicant continues to be a member of the immediate family of the person mentioned in clause 852.311.

852.323

The person mentioned in clause 852.311 has been granted a Subclass 852 (Referred Stay (Permanent)) visa.

852.324

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

852.4—Circumstances applicable to grant

852.411

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

852.5—When visa is in effect

852.511

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

Clause 852.611

852.6—Conditions

852.611

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified for this clause by the Minister.

Subclass 858—Distinguished Talent

858.1—Interpretation

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

858.2—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.

858.21—Criteria to be satisfied at time of application

858.211

- (1) The applicant is not the holder of:
 - (a) a visa of one of the following classes or subclasses:
 - (i) Electronic Travel Authority (Class UD);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Sponsored (Visitor) (Class UL);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (v) Subclass 400 (Temporary Work (Short Stay Activity));
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV);
 - (viii) Subclass 600 (Visitor); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
 - (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes or subclasses:
 - (A) Electronic Travel Authority (Class UD);
 - (BA) Maritime Crew (Temporary) (Class ZM);

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- (C) Sponsored (Visitor) (Class UL);
- (DA) Superyacht Crew (Temporary) (Class UW);
- (E) Subclass 400 (Temporary Work (Short Stay Activity));
- (F) Tourist (Class TR);
- (G) Visitor (Class TV);
- (H) Subclass 600 (Visitor); or
- (ii) a special purpose visa; or
- (iii) a Subclass 456 (Business (Short Stay)) visa.

858.212

- (1) The applicant meets the requirements of subclause (2) or (4).
 - (2) The applicant:
 - (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:
 - (i) a profession;
 - (ii) a sport;
 - (iii) the arts;
 - (iv) academia and research; and
 - (b) is still prominent in the area; and
 - (c) would be an asset to the Australian community; and
 - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and
 - (e) produces a completed approved form 1000; and
- Note: An approved form 1000 requires the applicant's record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:
- (a) an Australian citizen; or
 - (b) an Australian permanent resident; or
 - (c) an eligible New Zealand citizen; or
 - (d) an Australian organisation;
- who has a national reputation in relation to the area.

- (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application—would be of exceptional benefit to the Australian community.
- (4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:
 - (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
 - (b) the Director-General of Security;the applicant has provided specialised assistance to the Australian Government in matters of security.

858.22—Criteria to be satisfied at time of decision

858.221

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

858.223

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 858 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; 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 858 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

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- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

858.224

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.

858.225

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

858.3—Secondary criteria

- Note 1: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.
- Note 2: For an applicant for a Distinguished Talent (Residence) (Class BX) visa who has not turned 18, subregulation 1.12(7) sets out a specific definition of *member of the family unit* in addition to the operation of subregulation 1.12(1). For an applicant who has turned 18, see subregulation 1.12(1).

858.31—Criteria to be satisfied at time of application

858.311

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

- (a) has applied for a Distinguished Talent (Residence) (Class BX) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 858.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

858.312

Any sponsorship or nomination given in respect of that other person includes the applicant.

858.32—Criteria to be satisfied at time of decision

858.321

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (***the non-dependent holder***) who, having satisfied the primary criteria, is the holder of a Subclass 858 visa.
- (3) The applicant meets the requirements of this subclause if:
 - (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and

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- (b) the spouse or de facto partner meets the requirements of subclause (3); and
- (c) the applicant has made a combined application with the non-dependent holder; and
- (d) the spouse or de facto partner has been granted a Subclass 858 visa.

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

858.322

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

858.324

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

858.4—Circumstances applicable to grant

858.411

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

858.5—When visa is in effect

858.511

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

858.6—Conditions: Nil.

Subclass 864—Contributory Aged Parent

864.1—Interpretation

864.111

In this Part, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa means a person:

- (a) who, at the time of application, holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
- (b) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
- (c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application.

Note: *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, outstanding, parent visa* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5(1) of the Act (also see regulation 1.14A), de facto *partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

864.2—Primary criteria

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

864.21—Criteria to be satisfied at time of application

864.211

- (1) The applicant is:
-

Clause 864.212

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies criterion 3002.
- (2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 864 (Contributory Aged Parent) visa.

864.212

The applicant is:

- (a) the aged parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
- (ab) the holder of a substituted Subclass 600 visa, and is the parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
- (b) a person:
 - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (ii) who is no longer the parent of the child because the child has died; and
 - (iii) who is not the parent of another child; or
- (c) a person:
 - (i) who is the holder of a substituted Subclass 600 visa; and
 - (ii) who was, before he or she was granted the substituted Subclass 600 visa, the holder of a Subclass 884

- (Contributory) Aged Parent (Temporary)) visa that ceased to be in effect; and
- (iii) who is no longer the parent of the child because the child has died; and
- (iv) who is not the parent of another child; or
- (d) a person:
 - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (ii) who, immediately before he or she was granted the Subclass 884 (Contributory Aged Parent (Temporary)) visa, was the holder of a substituted Subclass 600 visa.

864.213

- (1) The applicant is:
 - (a) sponsored in accordance with subclause (2) or (3); or
 - (b) taken, under subclause (4), to be sponsored in accordance with this clause; or
 - (c) satisfies the criterion in paragraph 864.212(c).
- (2) If the child has turned 18, the applicant is sponsored by:
 - (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
 - (a) the child's cohabiting spouse, if the spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or

Clause 864.213

- (C) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.
- (4) The applicant is taken to be sponsored in accordance with this clause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or
 - (ii) both:
 - (A) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 600 visa at the time of application; and
 - (b) the person who sponsored the applicant for the Subclass 884 (Contributory Aged Parent (Temporary)) visa dies before the Subclass 884 (Contributory Aged Parent (Temporary)) visa ceases to be in effect; and
 - (c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).

864.214

For an applicant who, at the time of application, is neither:

- (a) the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; nor
 - (b) the holder of a substituted Subclass 600 visa;
- the applicant satisfies the balance of family test.

864.22—Criteria to be satisfied at time of decision

864.221

- (1) If the applicant met the requirement in paragraph 864.212(ab) at the time of application, the applicant continues to be the parent of the child mentioned in that paragraph.
- (2) If the applicant met the requirement in paragraph 864.212(c) at the time of application, the applicant is not the parent of a child other than the child mentioned in subparagraph 864.212(c)(iii).
- (3) If the applicant met another requirement in clause 864.212 at the time of application, the applicant continues to meet the requirement.

864.222

For an applicant who satisfies the criterion in paragraph 864.213(1)(a) or (b), if a sponsorship of the kind mentioned in subclause 864.213(2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:

- (a) the sponsor at the time of application; or
- (b) another sponsor who meets the requirements set out in subclause 864.213(2) or (3);

whether or not the sponsor was the sponsor at the time of application.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 864 Contributory Aged Parent

Clause 864.222A

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 864.213(2) or (3).

864.222A

If clause 864.222 does not apply:

- (a) the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; and
- (b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 864 (Contributory Aged Parent) visa; and
- (c) there is no other sponsor available who meets the requirements set out in subclause 864.213(2) or (3).

864.223

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was ...	the criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009, 4010, 4019, 4020 and 4021; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate

864.224

If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and
- (aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (b) has undergone any health checks that the Minister considers appropriate.

864.224A

Each member of the family unit of the applicant who is an applicant for a Subclass 864 visa is a person who satisfies public interest criterion 4020.

864.225

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

864.226

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

864.227

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is an applicant for a Subclass 864 (Contributory Aged Parent) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 864 Contributory Aged Parent

Clause 864.228

- (b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate; and (c) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010

864.228

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 864 (Contributory Aged Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

864.229

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.

864.230

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

864.3—Secondary criteria

864.31—Criteria to be satisfied at time of application

864.311

Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 864.21; or

Clause 864.312

- (b) each of the following applies:
 - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
 - (A) has applied for a Contributory Aged Parent (Residence) (Class DG) visa; and
 - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 864.21;
 - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

864.312

One of the following applies:

- (a) the sponsorship mentioned in subclause 864.213(2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 864.213(4);
- (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application and:
 - (i) the contributory parent newborn child's parent was granted a Subclass 864 (Contributory Aged Parent) visa on the basis of meeting paragraph 864.222(b); or
 - (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 864 (Contributory Aged Parent) visa died after that visa was granted.

864.32—Criteria to be satisfied at time of decision

864.321

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 864 (Contributory Aged Parent) visa.

864.322

One of the following applies:

- (a) the sponsorship, mentioned in paragraph 864.222(a), that includes sponsorship of the applicant:
 - (i) has been approved by the Minister in relation to the applicant; and
 - (ii) is still in force in relation to the applicant;
- (b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 864.222(b) at the time of decision, and the applicant meets those requirements at the time of decision;
- (c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 864.312(c).

864.323

The applicant:

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

864.324

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	4004, 4005, 4009 and 4010

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 864 Contributory Aged Parent

Clause 864.325

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate

864.325

If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

864.326

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

864.327

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

864.328

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

864.329

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

864.4—Circumstances applicable to grant

864.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

864.5—When visa is in effect

864.511

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

864.6—Conditions: Nil.

Subclass 866—Protection

866.1—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.

866.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

866.21—Criteria to be satisfied at time of application

866.211

(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 866 (Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

866.22—Criteria to be satisfied at time of decision

866.221

(1) Subclause (2) or (3) is satisfied.

- (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 866 (Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

866.223

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.

866.224

The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and

Clause 866.224A

- (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.

866.224A

A relevant medical practitioner:

- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under clause 866.223; and
 - (ii) the radiological report (if any) required under clause 866.224 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and 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, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

866.224B

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.

866.225

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.

866.226

The Minister is satisfied that the grant of the visa is in the national interest.

866.227

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant, or a member of the family unit of the applicant, is not a person who has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary Safe Haven (Class UJ) visa as provided for in regulation 2.07AC.
- (3) The applicant meets the requirements of this subclause if section 91K of the Act does not apply to the applicant's application because of a determination made by the Minister under subsection 91L(1) of the Act.

866.230

- (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 866.221(2) applies; and
 - (b) the applicant to whom subclause 866.221(2) applies has been granted a Subclass 866 (Protection) visa.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 866 Protection

Clause 866.231

- 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 866.221(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.

866.231

The applicant has not been made an offer of a permanent stay in Australia as described in item 3 or 4 of the table in subregulation 2.07AQ(3).

866.232

The applicant does not hold a Resolution of Status (Class CD) visa.

866.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

866.4—Circumstances applicable to grant

866.411

The applicant must be in Australia.

866.5—When visa is in effect

866.511

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

866.6—Conditions

866.611

Condition 8559.

Subclass 884—Contributory Aged Parent (Temporary)

884.1—Interpretation

Note: *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, outstanding, parent visa* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5(1) of the Act (also see regulation 1.14A), de facto *partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

884.2—Primary criteria

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

884.21—Criteria to be satisfied at time of application

884.211

- (1) The applicant is:
 - (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies criterion 3002.
- (2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 884 (Contributory Aged Parent (Temporary)) visa.

Clause 884.212

884.212

- (1) The applicant is:
 - (a) either:
 - (i) the aged parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (ii) the holder of a substituted Subclass 600 visa and the parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; and
 - (b) sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
 - (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
 - (a) the child's cohabiting spouse, if the spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and

- (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (d) a community organisation.

884.213

If the applicant is not the holder of a substituted Subclass 600 visa, the applicant satisfies the balance of family test.

884.22—Criteria to be satisfied at time of decision

884.221

The applicant continues to satisfy the criterion in subclause 884.212(1).

884.222

A sponsorship of the kind mentioned in clause 884.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 884.212.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 884 Contributory Aged Parent (Temporary)

Clause 884.224

884.224

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019

884.225

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

884.226

Each member of the family unit of the applicant who is an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and
- (b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010 and 4020; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010

884.227

Each member of the family unit of the applicant who is not an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa must satisfy the public interest criteria mentioned in the item in the table that applies to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

Clause 884.228

884.228

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.

884.229

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

884.3—Secondary criteria

884.31—Criteria to be satisfied at time of application

884.311

Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 884.21; or
- (b) each of the following applies:
 - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
 - (A) has applied for a Contributory Aged Parent (Temporary) (Class UU) visa; and
 - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 884.21;
 - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

884.312

A sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

884.32—Criteria to be satisfied at time of decision

884.321

Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

884.322

One of the following applies:

- (a) a sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:
 - (i) is in force; and
 - (ii) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.
- (b) the applicant is a contributory parent newborn child who is sponsored by the person who sponsored the contributory parent newborn child's parent for a Subclass 884 (Contributory Aged Parent (Temporary)) visa or a Subclass 864 (Contributory Aged Parent) visa, and the contributory parent newborn child's sponsorship has been approved by the Minister;
- (c) the applicant is a contributory parent newborn child who is taken to be sponsored in accordance with clause 884.322A.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 884 Contributory Aged Parent (Temporary)

Clause 884.322A

884.322A

A contributory parent newborn child is taken to be sponsored if:

- (a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 864.213(4); or
- (b) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) the parent is the holder of a Subclass 864 (Contributory Aged Parent) visa at the time of the contributory parent newborn child's application;
 - (ii) the person who sponsored the parent for the Subclass 864 (Contributory Aged Parent) visa has died; or
- (c) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
 - (A) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa;
 - (ii) the person who sponsored the parent for the Subclass 884 (Contributory Aged Parent (Temporary)) visa has died.

884.323

For an applicant who is not a contributory parent newborn child, the applicant satisfies the criteria mentioned for the applicant in an item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 884.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

Clause 884.324

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 884.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
		(b) if the applicant had turned 18 at the time of application— 4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application— 4019

884.324

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

884.325

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

884.326

If the applicant:

- (a) is not a contributory parent newborn child; and
- (b) has previously been in Australia;

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

884.327

If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.

884.328

The applicant satisfies public interest criteria 4020 and 4021.

Clause 884.411

884.4—Circumstances applicable to grant

884.411

If the applicant is not a contributory parent newborn child, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

884.412

If the applicant is a contributory parent newborn child, the applicant may be in Australia or outside Australia when the visa is granted.

884.5—When visa is in effect

884.511

If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

884.512

If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

884.6—Conditions: Nil.

Subclass 887—Skilled—Regional

887.1—Interpretation

887.111

- (1) In this Part:

specified regional area, for an applicant who applies for a Subclass 887 visa, means a part of Australia identified in accordance with subclause (2) or (3).

- (2) If an applicant applies for the Subclass 887 visa on the basis of having held:

- (a) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
- (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8549; or
- (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8549; or
- (d) a Subclass 475 (Skilled—Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and
 - (iii) the visa was granted on the basis that the requirements of subclause 475.222(3) were satisfied; or
- (e) a Subclass 487 (Skilled—Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and

Clause 887.111

- (iii) the visa was granted on the basis that the requirements of subclause 487.225(3) were satisfied; or
 - (f) a Skilled—Regional Sponsored (Provisional) (Class SP) visa that is subject to condition 8549;
- a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6701 of Schedule 6 or was a designated area.
- (3) If an applicant applies for the Subclass 887 visa on the basis of having held:
 - (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8539; or
 - (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8539; or
 - (d) a Subclass 475 (Skilled—Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) in making the application, the requirements of subitem 1228(3A) of Schedule 1 were satisfied; and
 - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; or
 - (e) a Subclass 487 (Skilled—Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) in making the application, the requirements of subitem 1229(3A) of Schedule 1 were satisfied; and
 - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; or

- (f) a Skilled—Regional Sponsored (Provisional) (Class SP) visa that is subject to condition 8539;
a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D.

887.2—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.

887.21—Criteria to be satisfied at time of application

887.211

The applicant meets the requirements set out in subitem 1136(7) of Schedule 1.

887.212

The applicant must have lived in a specified regional area for a total of at least 2 years as the holder of 1 or more 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;
- (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;
- (f) a Bridging A (Class WA) visa, or a Bridging B (Class WB) visa, that was granted on the basis of a valid application for:
 - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled (Provisional) (Class VC) visa; or

Clause 887.213

- (iii) a Skilled—Regional Sponsored (Provisional) (Class SP) visa.

887.213

The applicant must have worked full-time in a specified regional area for a total of at least 1 year as the holder of 1 or more of the visas mentioned in clause 887.212.

887.22—Criteria to be satisfied at time of decision

887.221

- (1) While the applicant was the holder of:
- (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; or
 - (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;
- the applicant must have substantially complied with the conditions to which that visa is or was subject.
- (2) While a person included in the application (other than the applicant) was the holder of:
- (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; or
 - (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;
- that person must have substantially complied with the conditions to which that visa is or was subject.

887.223

The applicant:

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

887.224

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

887.225

Each member of the family unit of the applicant, who is also an applicant for a Subclass 887 visa, is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010 and 4020; and
- (aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (b) satisfies special return criteria 5001, 5002 and 5010.

887.226

Each member of the family unit of the applicant, who is not an applicant for a Subclass 887 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.

887.227

If a person (the additional applicant):

- (a) is a member of the family unit of the applicant; and
- (b) is less than 18; and

Clause 887.228

(c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied for the
additional applicant.

887.228

Grant of the visa would not result in either:

- (a) the number of Subclass 887 visas granted in a financial year exceeding the maximum number of Subclass 887 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 887) 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.

887.3—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.

887.31—Criteria to be satisfied at time of application

887.311

The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 887.21 and made a combined application with that person.

887.32—Criteria to be satisfied at time of decision

887.321

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 887 visa.

887.322

The applicant:

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

887.323

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

887.324

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

887.4—Circumstances applicable to grant

887.411

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

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

887.5—When visa is in effect

887.511

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

887.6—Conditions: Nil.

Subclass 888—Business Innovation and Investment (Permanent)

888.1—Interpretation

888.111

In this Part:

designated investment means an investment in a security that is specified for this Part by the Minister under regulation 5.19A.

Note 1: For ***AUD***, ***fiscal year***, ***ownership interest*** and ***qualifying business***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***member of the family unit*** has the meaning set out in regulation 1.12.

Note 3: ***main business*** is defined in regulation 1.11.

Note 4: For the beneficial ownership of an asset, eligible investment or ownership interest: see regulation 1.11A.

Note 5: ***Complying investment*** is defined in regulation 5.19B.

Note 6: ***Complying significant investment*** is defined in regulation 5.19C.

Note 7: ***Complying premium investment*** is defined in regulation 5.19D.

888.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 888 visa include criteria set out in streams.

If an applicant applies for a Subclass 888 visa in the Business Innovation stream, the criteria in Subdivisions 888.21 and 888.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Investor stream, the criteria in Subdivisions 888.21 and 888.23 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Significant Investor stream, the criteria in Subdivisions 888.21 and 888.24 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Premium Investor stream, the criteria in Subdivisions 888.21 and 888.25 are the primary criteria for the grant of the visa.

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.

888.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 888 visa.

888.211

The applicant, and the applicant's spouse or de facto partner, do not have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

888.212

The nominating State or Territory government agency or the CEO of Austrade has not withdrawn the nomination.

888.213

The applicant genuinely has a realistic commitment to maintain business or investment activities in Australia.

888.214

The applicant, and the applicant's spouse or de facto partner, have a satisfactory record of compliance with the laws of the Commonwealth, and of each State or Territory in which the applicant operates a business and employs employees in the business, relating to the applicant's business.

Note: Those laws include laws relating to taxation, superannuation and workplace relations.

Clause 888.215

888.215

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 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 888 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010 and 4020.
- (4) Each member of the family unit of the applicant who:
 - (a) is an applicant for a Subclass 888 visa; and
 - (b) had turned 18 at the time of application;satisfies public interest criterion 4019.
- (5) Each member of the family unit of the applicant who:
 - (a) is an applicant for a Subclass 888 visa; and
 - (b) has not turned 18;satisfies public interest criteria 4015 and 4016.
- (6) Each member of the family unit of the applicant who is not an applicant for a Subclass 888 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

888.216

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 888 visa satisfies special return criteria 5001, 5002 and 5010.

888.22—Criteria for Business Innovation stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Business Innovation stream.

888.221

The applicant has been in Australia, as the holder of one or more visas mentioned in the table in subitem 1104BA(4) of Schedule 1, for a total period of at least one year in the 2 years immediately before the application was made.

888.222

- (1) The applicant (the current applicant):
 - (a) had an ownership interest in at least one actively operating main business in Australia during the 2 years immediately before the application was made; and
 - (b) continues to have the ownership interest in the actively operating main business.
- (2) If the current applicant acquired the ownership interest from another person who was an applicant for, or held, a Business Skills (Permanent) (Class EC) visa or a Business Skills (Residence) (Class DF) visa at the time of the acquisition, the current applicant must have held the ownership interest with that person as a joint interest for at least one year before the current applicant's application was made.

888.223

An Australian Business Number has been obtained for each business mentioned in subclause 888.222(1).

888.224

Each Business Activity Statement required by the Commissioner of Taxation during the 2 years immediately before the application was

Clause 888.225

made has been submitted to the Commissioner and has been included in the application.

888.225

- (1) If the nominating State or Territory government agency has not determined that there are exceptional circumstances:
 - (a) the requirements in at least 2 of subclauses (2) to (4) are met; and
 - (b) the requirement in subclause (5) is met.
- (2) The assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
 - (a) had a net value of at least AUD200 000 throughout the period of 12 months immediately before the application was made; and
 - (b) continue to have a net value of at least AUD200 000; and
 - (c) were lawfully acquired.
- (3) In the period of 12 months immediately before the application was made:
 - (a) the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together provided employment in Australia to 2 or more employees for a total number of hours that was at least the total number of hours that would have been worked by 2 full-time employees; and
 - (b) each employee whose employment is used to work out that total number of hours:
 - (i) was not the applicant or a member of the family unit of the applicant during that period; and
 - (ii) was an Australian citizen, an Australian permanent resident or the holder of a valid New Zealand passport during that period.

- (4) The business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (a) had a net value of at least AUD600 000 in the period of 12 months ending immediately before the application was made; and
 - (b) continue to have a net value of at least AUD600 000; and
 - (c) were lawfully acquired.
- (5) The main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had an annual turnover of at least AUD300 000 in the 12 months immediately before the application was made.

888.226

- (1) Subclause (2) or (3) applies.
- (2) All of the following apply:
 - (a) the nominating State or Territory government agency has determined that there are exceptional circumstances;
 - (b) the requirements set out in at least 2 of subclauses 888.225(2) to (4) have been met;
 - (c) the applicant:
 - (i) resides in an area specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) operates the applicant's main business or businesses in Australia in the area.
- (3) Both of the following apply:
 - (a) the nominating State or Territory government agency has determined that there are exceptional circumstances;
 - (b) the requirement set out in subclause 888.225(5) has been met.

Clause 888.231

888.23—Criteria for Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Investor stream.

888.231

The applicant has been in Australia, as the holder of a visa mentioned in the table in subitem 1104BA(5) of Schedule 1, for a total period of at least 2 years in the 4 years immediately before the application was made.

888.232

The designated investment made by the applicant for the purpose of satisfying a criterion for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for:

- (a) if the Subclass 188 (Business Innovation and Investment (Provisional)) visa was granted on the basis of an application made before 1 July 2015—at least 3 years and 11 months; or
- (b) if the Subclass 188 (Business Innovation and Investment (Provisional)) visa was granted on the basis of an application made on or after 1 July 2015—at least 4 years.

888.24—Criteria for Significant Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Significant Investor stream.

888.241

- (1) At the time of application:
 - (a) the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream for a continuous period of 4 years; or
 - (b) the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor

stream and one or more Subclass 188 (Business Innovation and Investment (Provisional)) visas in the Significant Investor Extension stream for a continuous period of 4 years; or

(c) the applicant:

- (i) has held, for a continuous period of 3 years and 11 months, a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream applied for before 1 July 2015; and
- (ii) has not held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream granted on the basis of the visa mentioned in subparagraph (i).

(2) The applicant meets the requirements of subclause (2A) or (2B).

(2A) Both of the following apply:

- (a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made before 1 July 2015;
- (b) the applicant has held, for the whole of the period during which the applicant has held the visas or visa mentioned in subclause (1), a complying investment within the meaning of regulation 5.19B as in force at the time the application mentioned in paragraph (a) was made.

(2B) Both of the following apply:

- (a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made on or after 1 July 2015;
- (b) the applicant has held, for the whole of the period during which the applicant has held the visas or visa mentioned in subclause (1), a complying significant investment within the meaning of regulation 5.19C as in force at the time the application mentioned in paragraph (a) was made.

Clause 888.242

- (3) For any part of the investment mentioned in subclause (2A) or (2B) for the applicant that is, or was, a direct investment in an Australian proprietary company:
 - (a) if the period of the direct investment was less than 2 years, the company was a qualifying business for the whole period; or
 - (b) if the period of the direct investment was 2 years or more, the company was a qualifying business for at least 2 years; or
 - (c) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.
- (4) The applicant has given the Minister:
 - (a) if subclause (2A) applies to the applicant—a completed copy of approved form 1413 for each investment in a managed fund on which the investment mentioned in that subclause is based; or
 - (b) if subclause (2B) applies to the applicant—evidence that the applicant holds an investment as required for that subclause.

Note: Approved form 1413 includes a declaration that the investments made by a managed fund for the benefit of clients are limited to one or more of the purposes specified by the Minister for paragraph 5.19B(2)(c).

888.242

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant has been in Australia for at least the number of days worked out by adding the results of paragraphs (a) and (b):
 - (a) 40 multiplied by the number of complete years in the period in which the applicant has held a Subclass 188 visa in the Significant Investor stream; and
 - (b) 40 multiplied by the number of years (if any) (treating a part of a year as 1 year) in the period in which the applicant has held a Subclass 188 visa in the Significant Investor Extension stream.

- (3) The applicant's spouse or de facto partner has been in Australia on a Subclass 188 visa, granted on the basis that the applicant held a Subclass 188 visa in the Significant Investor stream or the Significant Investor Extension stream, for at least the number of days worked out by adding the results of paragraphs (a) and (b):
- (a) 180 multiplied by the number of complete years in the period in which the applicant held a Subclass 188 visa in the Significant Investor stream; and
 - (b) 180 multiplied by the number of years (if any) (treating a part of a year as 1 year) in which the applicant held a Subclass 188 visa in the Significant Investor Extension stream.

Note: It is not necessary for the applicant to have been in Australia for 40 days in each year in the period or the applicant's spouse or de facto partner to have been in Australia for 180 days in each year in the period.

888.25—Criteria for Premium Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Premium Investor stream.

888.251

- (1) At the time of application the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Premium Investor stream for a continuous period of at least 12 months.
- (2) For the whole of the period during which the applicant has held the visa mentioned in subclause (1), the applicant has held a complying premium investment (within the meaning of regulation 5.19D as in force at the time the application for that visa was made) except any part of the investment that is a philanthropic contribution.
- (3) For any part of the complying premium investment (except any part of the investment that is a philanthropic contribution) that is, or was, a direct investment in an Australian proprietary company:

Clause 888.311

- (a) the company was a qualifying business for the whole period;
or
 - (b) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.
- (4) The applicant has given the Minister evidence that the investment complies with the requirements set out in regulation 5.19D as in force at the time of application.

888.3—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.

888.31—Criteria

888.311

The applicant:

- (a) is a member of the family unit of a person who holds a Subclass 888 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
- (b) made a combined application with that person.

888.312

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 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.

888.313

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

888.4—Circumstances applicable to grant

888.411

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.

888.5—When visa is in effect

888.511

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

888.6—Conditions

888.611

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

- (a) first entry must be made before the date specified by the Minister; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

Subclass 890—Business Owner

890.1—Interpretation

- Note 1: *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.
- Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.
- Note 3: Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12(1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.
- Note 4: There are no interpretation provisions specific to this Part.

890.2—Primary criteria

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

890.21—Criteria to be satisfied at time of application

890.211

- (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.
- (2) For each business to which subclause (1) applies:
 - (a) an Australian Business Number has been obtained; and
 - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.

890.212

The assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:

- (a) have a net value of at least AUD100 000; and
- (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

890.213

In the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD300 000.

890.214

In the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

- (a) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 12 months; and
- (b) provided those hours of employment to an employee, or employees, who:
 - (i) were not the applicant or a member of the family unit of the applicant; and
 - (ii) were Australian citizens, Australian permanent residents or New Zealand passport holders.

Clause 890.215

890.215

The net value of the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is, and has been throughout the 12 months immediately before the application is made, at least AUD250 000.

890.216

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

890.217

The applicant has been in Australia as the holder of 1 of the visas mentioned in paragraph 1104B(3)(d) of Schedule 1 for a total of at least 1 year in the 2 years immediately before the application is made.

890.22—Criteria to be satisfied at time of decision

890.221

The applicant continues to satisfy the criteria in clauses 890.211, 890.215 and 890.216.

890.222

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

890.223

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 890 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 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 890 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4007.

890.224

If a person:

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

890.3—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.

Clause 890.311

890.31—Criteria to be satisfied at time of application

890.311

The applicant is a member of the family unit of, and has made a combined application with, a person who satisfies the primary criteria in Subdivision 890.21.

890.32—Criteria to be satisfied at time of decision

890.321

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

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 890 visa.

890.322

- (1) The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
 - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4007.

890.323

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

890.4—Circumstances applicable to grant

890.411

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

890.5—When visa is in effect

890.511

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

890.6—Conditions

890.611

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

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

Subclass 891—Investor

891.1—Interpretation

891.111

In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note 1: ***AUD, fiscal year, ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3: Regulation 1.03 provides that ***member of the family unit*** has the meaning set out in regulation 1.12. Subregulations 1.12(1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

891.2—Primary criteria

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

891.21—Criteria to be satisfied at time of application

891.211

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

891.212

The applicant has been in Australia as the holder of a Subclass 162 (Investor (Provisional)) visa for a total of at least 2 years in the 4 years immediately before the application is made.

891.213

The applicant genuinely has a realistic commitment, after the grant of a Subclass 891 visa, to continue to maintain business or investment activity in Australia.

891.22—Criteria to be satisfied at time of decision

891.221

The applicant continues to satisfy the criteria in clauses 891.211 and 891.213.

891.222

The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 162 (Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

891.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

Clause 891.224

891.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 891 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 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 891 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4007.

891.225

If a person:

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

891.3—Secondary criteria

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

891.31—Criteria to be satisfied at time of application

891.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 891.21.

891.32—Criteria to be satisfied at time of decision

891.321

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

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 891 visa.

891.322

- (1) The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
 - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.

891.323

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

891.4—Circumstances applicable to grant

891.411

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

891.5—When visa is in effect

891.511

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

891.6—Conditions

891.611

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

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

Subclass 892—State/Territory Sponsored Business Owner

892.1—Interpretation

- Note 1: *appropriate regional authority*, *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.
- Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.
- Note 3: Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12(1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.
- Note 4: There are no interpretation provisions specific to this Part.

892.2—Primary criteria

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

892.21—Criteria to be satisfied at time of application

892.211

- (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.
- (2) For each business to which subclause (1) applies:
 - (a) an Australian Business Number has been obtained; and
 - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.

Clause 892.212

892.212

Unless the appropriate regional authority has determined that there are exceptional circumstances, the applicant meets at least 2 of the following requirements:

- (a) in the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 1 full-time employee over that period of 12 months; and
 - (ii) provided those hours of employment to an employee, or employees, who:
 - (A) were not the applicant or a member of the family unit of the applicant; and
 - (B) were Australian citizens, Australian permanent residents or New Zealand passport holders;
- (b) the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) have a net value of at least AUD250 000; and
 - (ii) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and
 - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together;
- (c) the assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
 - (i) have a net value of at least AUD75 000; and

- (ii) had a net value of at least AUD75 000 throughout the period of 12 months ending immediately before the application is made; and
- (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

892.213

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if, in the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD200 000.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant meets at least 2 of the requirements set out in paragraphs 892.212(a), (b) and (c); and
 - (b) the applicant resides in, and operates the applicant's main business or businesses in Australia in, an area specified in an instrument in writing made by the Minister for this paragraph; and
 - (c) the appropriate regional authority has determined that there are exceptional circumstances for this subclause.

892.214

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

892.215

If the applicant is not the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa, one or more of the following circumstances has existed for a total of at least 1 year in

Clause 892.216

the period of 2 years ending immediately before the application is made:

- (a) the applicant has been in Australia as the holder of one of the visas mentioned in paragraph 1104B(3)(f) of Schedule 1;
- (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223(7A) of Schedule 2;
- (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223(7A) of Schedule 2.

892.216

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant must have lived for at least 2 years in total, as the holder of 1 or more:

- (c) Skilled—Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled—Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was

granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.216A

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:

- (c) Skilled—Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled—Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.217

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

Clause 892.221

892.22—Criteria to be satisfied at time of decision

892.221

The applicant:

- (a) continues to satisfy the criteria in clauses 892.211 and 892.214; and
- (b) if the applicant met the requirements of paragraph 892.212(b), continues to meet those requirements.

892.222

- (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

892.223

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

892.224

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 892 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 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 892 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.

- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;
- satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;
- satisfies public interest criterion 4007.

892.225

If a person:

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

892.3—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.

Clause 892.311

892.31—Criteria to be satisfied at time of application

892.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 892.21.

892.312

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

892.32—Criteria to be satisfied at time of decision

892.321

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

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 892 visa.

892.322

(1) The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

- (2) If the applicant, at the time of application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4007.

892.323

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

892.4—Circumstances applicable to grant

892.411

If the applicant:

- (a) was the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa at the time of application; or
- (b) is a member of the family unit of a person who was the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa by reason of satisfying the primary criteria for the grant of the visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Clause 892.412

892.412

If clause 892.411 does not apply:

- (a) if the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted; and
- (b) if the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

892.5—When visa is in effect

892.511

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

892.6—Conditions

892.611

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

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

Subclass 893—State/Territory Sponsored Investor

893.1—Interpretation

893.111

In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for the purposes of this Part.

Note 1: ***appropriate regional authority, AUD, fiscal year, ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3: Regulation 1.03 provides that ***member of the family unit*** has the meaning set out in regulation 1.12. Subregulations 1.12(1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

893.2—Primary criteria

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

893.21—Criteria to be satisfied at time of application

893.211

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

Clause 893.212

893.212

The applicant has been resident, as the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located for a total of at least 2 years in the 4 years immediately before the application is made.

893.213

The applicant genuinely has a realistic commitment, after the grant of a Subclass 893 visa, to continue to maintain business or investment activity in Australia.

893.22—Criteria to be satisfied at time of decision

893.221

The applicant continues to satisfy the criteria in clauses 893.211 and 893.213.

893.222

- (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

893.223

The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

893.224

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

893.225

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 893 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 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 893 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4007.

893.226

If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

Clause 893.311

(c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied in relation to the person.

893.3—Secondary criteria

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

893.31—Criteria to be satisfied at time of application

893.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 893.21.

893.32—Criteria to be satisfied at time of decision

893.321

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

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 893 visa.

893.322

- (1) The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
 - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.

- (3) If the applicant, at the time of application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.

893.323

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

893.4—Circumstances applicable to grant

893.411

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

893.5—When visa is in effect

893.511

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

Clause 893.611

893.6—Conditions

893.611

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

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

Subclass 988—Maritime Crew

Note: This Subclass is created in accordance with section 38B of the Act.

988.1—Interpretation

Note 1: *Member of the crew* and *non-military ship* are defined in regulation 1.03.

Note 2: For this Part, a person will sign on to a ship in Australia after:

- (a) travelling to Australia on another visa in order to join a ship as a member of the crew; or
- (b) joining the ship in Australia after signing off another ship in Australia; or
- (c) joining another ship after the ship on which the person travelled to Australia is imported under section 49A or 71A of the *Customs Act 1901*.

988.2—Primary criteria

Note: The spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship, need satisfy only the secondary criteria.

988.21—Criteria to be satisfied at time of application

988.211

The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
 - (ii) in relation to whom the offer is current; and
 - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

Clause 988.221

988.22—Criteria to be satisfied at time of decision

988.221

The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
 - (ii) in relation to whom the offer is current; and
 - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

988.222

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

988.223

The applicant satisfies special return criteria 5001 and 5002.

988.224

The Minister is satisfied that the applicant's expressed intention to enter and remain in Australia for the purpose of being a member of the crew of a non-military ship is genuine.

988.3—Secondary criteria

Note: These criteria must be satisfied by the spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship.

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

988.32—Criteria to be satisfied at time of decision

988.321

The applicant is:

- (a) the spouse or de facto partner of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa; or
- (b) a dependent child of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa.

988.322

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

988.323

The applicant satisfies special return criteria 5001 and 5002.

988.4—Circumstances applicable to grant

988.411

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

988.5—When visa is in effect

988.511

Temporary visa coming into effect on grant.

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 988 Maritime Crew

Clause 988.512

988.512

The visa ceases to be in effect:

- (a) on the occurrence of the earliest of the circumstances mentioned in an item in the following table; and
- (b) at the time mentioned in the item:

Item	Circumstances	Time at which the visa ceases to have effect
1	Both of the following apply: (a) the holder has entered Australia otherwise than as: (i) a member of the crew serving on a non-military ship; or	The end of the day or period worked out under paragraph (b) in column 2

Item	Circumstances	Time at which the visa ceases to have effect
	<ul style="list-style-type: none"> (ii) the spouse, de facto partner or a dependent child of a member of the crew serving on a non-military ship; (b) the holder has not signed on to a non-military ship as a member of the crew, or as a spouse, de facto partner or dependent child of a member of the crew, before the latest of: <ul style="list-style-type: none"> (i) 5 days after the day on which the holder last entered Australia; and (ii) if the holder last entered Australia for health or safety reasons that required the holder to enter Australia—30 days after the day on which the holder last entered Australia; and (iii) if the holder holds another visa that is in effect—the day on which that other visa ceases 	
2	<p>Each of the following applies:</p> <ul style="list-style-type: none"> (a) the holder has entered Australia; (b) the non-military ship in relation to which the holder is: <ul style="list-style-type: none"> (i) a member of the crew; or (ii) the spouse, de facto partner or a dependent child of a member of the crew; has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under section 71A of that Act but is not registered in the Australian International Shipping Register; (c) the holder has not signed on to another non-military ship as a member of the crew, or as the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person: <ul style="list-style-type: none"> (i) 5 days after the day on which the non-military ship was imported or entered for home consumption; 	<p>The end of the day or the longest period worked out under paragraph (c) or (d) in column 2</p>

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 988 Maritime Crew

Clause 988.512

Item	Circumstances	Time at which the visa ceases to have effect
	<ul style="list-style-type: none"> (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption—that longer period (d) the person has not departed Australia before the end of the longest of the following periods that applies to the person: <ul style="list-style-type: none"> (i) 5 days after the day on which the non-military ship was imported or entered for home consumption; (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption—that longer period; (iii) if the holder holds another visa that is in effect—the day on which that other visa ceases 	
2A	<p>Each of the following applies:</p> <ul style="list-style-type: none"> (a) the holder has entered Australia; (b) the non-military ship in relation to which the holder is: <ul style="list-style-type: none"> (i) a member of the crew; or (ii) the spouse, de facto partner or a dependent child of a member of the crew; has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under section 71A of that Act; (c) the non-military ship was registered in the Australian International Shipping Register when the ship was imported or entered for home consumption; (d) the non-military ship ceases to be registered in that Register; 	The end of the day or the longest period worked out under paragraph (e) or (f) in column 2

Item	Circumstances	Time at which the visa ceases to have effect
	<p>(e) the holder has not signed on to another non-military ship as a member of the crew, or as the spouse, de facto partner or a dependent child of a member of the crew, before the end of the longer of the following periods that applies to the person:</p> <p>(i) 5 days after the day on which the non-military ship ceases to be registered in the Australian International Shipping Register;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship ceases to be registered in that Register—that longer period;</p> <p>(f) the person has not departed Australia before the end of the longest of the following periods that applies to the person:</p> <p>(i) 5 days after the day on which the non-military ship ceases to be registered in the Australian International Shipping Register;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship ceases to be registered in that Register—that longer period;</p> <p>(iii) if the holder holds another visa that is in effect—the day on which that other visa ceases</p>	
3	<p>Each of the following applies:</p> <p>(a) the holder has entered Australia;</p> <p>(b) the holder has signed off a non-military ship as:</p> <p>(i) a member of the crew of the non-military ship; or</p> <p>(ii) the spouse, de facto partner or dependent child of the spouse or de facto partner of a member of the crew of a non-military ship;</p>	<p>The end of the day or the longest period worked out under paragraph (c) or (d) in column 2</p>

Schedule 2 Provisions with respect to the grant of Subclasses of visas
Subclass 988 Maritime Crew

Clause 988.512

Item	Circumstances	Time at which the visa ceases to have effect
	<p>(c) the holder has not signed on to another non-military ship as a member of the crew or the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person:</p> <p>(i) 5 days after the day on which the holder signed off the last ship;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia—that longer period;</p> <p>(d) the holder has not departed Australia before the end of the longest of the following periods that applies to the person:</p> <p>(i) 5 days after the day on which the holder signed off the last ship;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia—that longer period;</p> <p>(iii) if the holder holds another visa that is in effect—the day on which that other visa ceases</p>	
4	The end of a continuous period of 3 years starting when the visa is granted	At the end of the period of 3 years
5	<p>Both of the following apply:</p> <p>(a) the holder is a person who satisfied the secondary criteria for the grant of the visa;</p> <p>(b) the maritime crew visa granted to the person who satisfied the primary criteria for the grant of the visa ceases to be in effect</p>	The end of the day on which the maritime crew visa granted to the holder who satisfied the primary criteria ceases to be in effect

Clause 988.611

Item	Circumstances	Time at which the visa ceases to have effect
6	Both of the following apply: (a) the holder also holds another visa; (b) the other visa is cancelled otherwise than under section 501, 501A or 501B of the Act	At the end of the day on which the other visa is cancelled

988.6—Conditions

988.611

For an applicant who satisfies the primary criteria, condition 8113.

988.612

For an applicant who satisfies the secondary criteria, condition 8101.

Subclass 995—Diplomatic (Temporary)

995.1—Interpretation

995.111

In this Part:

international representative means a representative of an international organisation.

995.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 person. Other accompanying applicants for a visa of this subclass need satisfy only the secondary criteria.

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

995.22—Criteria to be satisfied at time of decision.

995.221

The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant on the basis of the applicant being:

- (a) a diplomatic or consular representative; or
- (b) an international representative.

995.222

The applicant satisfies public interest criterion 4021.

995.3—Secondary criteria

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

995.32—Criteria to be satisfied at time of decision

995.321

The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant to accompany a person (the primary applicant) who seeks to satisfy the primary criteria.

995.322

The primary applicant has satisfied the criteria for the grant of a visa as a primary applicant.

995.323

The applicant satisfies public interest criterion 4021.

995.4—Circumstances applicable to grant

995.411

Applicant may be in the migration zone or outside Australia.

995.5—When visa is in effect

995.511

Temporary visa permitting the holder:

- (a) to travel to and enter Australia until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
 - (i) if the visa was issued on the basis of the holder satisfying the primary criteria for the grant of the visa—for the duration of the holder's status as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
 - (B) an international representative; or

Clause 995.611

- (ii) if the visa was issued on the basis of the holder satisfying the secondary criteria for the grant of the visa—for the duration of the status of the person who satisfied the primary criteria as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
 - (B) an international representative; or
- (iii) in any case—until an earlier date specified by the Minister.

995.6—Conditions

995.611

If the applicant satisfies the primary criteria, condition 8516.

995.612

If the applicant satisfies the secondary criteria, conditions 8502 and 8516.