Migration Regulations 1994

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Migration Act 1958

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This compilation is in 4 volumes

Volume 1:	**regulations 1.01–5.45** **Schedule 1**
Volume 2:	Schedule 2 (Subclasses 010–801)
Volume 3:	Schedule 2 (Subclasses 802–995) Schedules 3–5, 6D, 7A, 8–10 and 13
Volume 4:	Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Migration Regulations 1994* that shows the text of the law as amended and in force on 6 December 2024 (the ***compilation date***).

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 the Register (www.legislation.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 Register 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.

Editorial changes

For more information about any editorial changes made in this compilation, see 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 Register 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

Division 1.1—Introductory

1.01 Name of Regulations

These Regulations are the *Migration Regulations 1994*.

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Division 1.2—Interpretation

Note: This Division sets out definitions that apply to the Regulations as a whole. Elsewhere in the Regulations there may be definitions that have more limited application. A term defined in section 5 of the Act has the same meaning in the Regulations, in the absence of a contrary intention.

1.03 Definitions

In these Regulations, unless the contrary intention appears:

AASES form, for a secondary exchange student, means an Acceptance Advice of Secondary Exchange Student form from the relevant State or Territory education authority, containing the following declarations:

(a) a declaration made by the student's exchange organisation, accepting the student;

(b) a declaration made by the student's parents, or the person or persons having custody of the student, agreeing to the exchange.

academic year means a period that is specified by the Minister as an academic year in an instrument in writing for this definition.

additional applicant charge means the charge explained in subregulation 2.12C(4).

adequate arrangements for health insurance means arrangements to be covered by health insurance:

(a) that meet the requirements for health insurance specified in an instrument under regulation 1.15L for the purposes of this paragraph; or

(b) if no such requirements are specified—that are adequate in the circumstances.

adoption has the meaning set out in regulation 1.04.

Note: ***adopt*** and ***adopted*** have corresponding meanings: see *Acts Interpretation Act 1901*, section 18A.

adoption compliance certificate means an adoption compliance certificate within the meaning of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 2023* or the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

Adoption Convention means the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption signed at The Hague on 29 May 1993.

Note: The text of the Adoption Convention is set out in Schedule 1 to the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

Adoption Convention country means a country that is a Convention country under the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

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adverse information has the meaning given by regulation 1.13A.

aged care service has the same meaning as in the *Aged Care Act 1997*.

aged dependent relative, in relation to a person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, means a relative who:

(a) does not have a spouse or de facto partner; and
(b) has been dependent on that person for a reasonable period, and remains so dependent; and
(c) is old enough to be granted an age pension under the *Social Security Act 1991*.

aged parent means a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

aircraft safety inspector means a person who:

(a) is employed by a foreign government to inspect the safety procedures of international air carriers or the safety of aircraft; and
(b) travels to Australia on an aircraft in the course of that employment; and
(c) will depart Australia on an aircraft in the course of that employment or as a passenger.

airline crew member means:

(a) a person who:
  (i) is employed by an international air carrier as an aircrew member; and
  (ii) travels to Australia in the course of his or her employment as a member of the crew of an aircraft; and
  (iii) will depart Australia in the course of his or her employment as a member of the crew of, or a passenger on, an aircraft; or
(b) an aircraft safety inspector.

airline positioning crew member means a person who:

(a) is employed by an international air carrier as an aircrew member; and
(b) travels to Australia in the course of his or her employment as a passenger on an aircraft; and
(c) will depart Australia as a member of the crew of an aircraft.

annual market salary rate, for a proposed occupation nominated under section 140GB of the Act or an occupation in relation to which a position is nominated under regulation 5.19, means the earnings an Australian citizen or an Australian permanent resident earns or would earn for performing equivalent work on a full-time basis for a year in the same workplace at the same location.

ANZSCO has the meaning specified by the Minister in an instrument in writing for this definition.

APEC means Asia-Pacific Economic Co-operation.

APEC economy means each of the following:

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(a) Australia;
(b) Brunei Darussalam;
(c) Canada;
(d) Chile;
(e) PRC;
(f) Hong Kong;
(g) Indonesia;
(h) Japan;
(i) the Republic of Korea;
(j) Malaysia;
(k) Mexico;
(l) New Zealand;
(m) Papua New Guinea;
(n) Peru;
(o) the Republic of the Philippines;
(p) the Russian Federation;
(q) Singapore;
(r) Taiwan;
(s) Thailand;
(t) the United States of America;
(u) Vietnam.

appropriate regional authority, in relation to a State or Territory and applications for visas of a particular class, means a Department or authority of that State or Territory that is specified in a legislative instrument made by the Minister in relation to the grant of visas of that class.

approved form means a form approved by the Minister under section 495 of the Act or regulation 1.18, and a reference to an approved form by number is a reference to the form so approved and numbered.

approved provider has the same meaning as in the *Aged Care Act 1997*.

Arts Minister means the Minister responsible for administering the *National Gallery Act 1975*.

ASCO means the Australian Standard Classification of Occupations, Second Edition, published by the Australian Bureau of Statistics on 31 July 1997.

Note: At the time this definition commenced, the standard was available at http://www.abs.gov.au.

Asia-Pacific forces member means a person who:
(a) is a member of the armed forces of Brunei, Fiji, Malaysia, Thailand or Tonga; and
(b) is travelling to Australia, or is in Australia, in the course of his or her duty; and

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(c) holds military identity documents and movement orders issued from an official source of the relevant country.

assistance notice means a notice in writing, issued by the Minister, the Secretary or an SES employee or acting SES employee of the Department, in relation to a non-citizen, advising that:

(a) the non-citizen is required in Australia to assist in the administration of criminal justice in relation to human trafficking, slavery or slavery-like practices; and

(b) satisfactory arrangements have been made to meet the cost of keeping the non-citizen in Australia.

associated entity, of a person, means an entity that is an associated entity of the person under section 50AAA of the *Corporations Act 2001*, determined as if that section applied in relation to entities including a body of the Commonwealth, a State or a Territory.

associated with has a meaning affected by regulation 1.13B.

assurance of support, in relation to an application for the grant of a visa, means an assurance of support under Chapter 2C of the *Social Security Act 1991*.

AUD, in relation to an amount of money, means Australian dollars.

AusAID means the body that was known as the Australian Agency for International Development.

AusAID Minister means a Minister who was responsible for administering AusAID.

Australian child order has the meaning given by subsection 70L(1) of the *Family Law Act 1975*.

Note: Subsection 70L(1) of the *Family Law Act 1975* provides that an ***Australian child order*** means:

(a) a Subdivision C parenting order; or

(b) a State child order.

Australian International Shipping Register means the Register established by subsection 56(2) of the *Shipping Registration Act 1981*.

Australian permanent resident means:

(a) in relation to an applicant for a Return (Residence) (Class BB) visa or a Resident Return (Temporary) (Class TP) visa—a non-citizen who is the holder of a permanent visa; or

(b) in any other case (other than in the case of an applicant for registration as a migration agent under Part 3 of the Act)—a non-citizen who, being usually resident in Australia, is the holder of a permanent visa.

Note: For paragraph 294(1)(b) of the Act, regulation 6C of the *Migration Agents Regulations 1998* specifies the persons who are ***Australian permanent residents*** for the purposes of an applicant for registration as a migration agent under Part 3 of the Act.

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

Australian study requirement has the meaning given by regulation 1.15F.

Australia Travel Declaration, in relation to the arrival of a person in Australia, means the digital declaration known by that name that is:

(a) submitted by the person in respect of that arrival to the departmental system that processes such declarations; or

(b) if the person has submitted one or more subsequent digital declarations in respect of that arrival—the most recently submitted declaration.

authorised officer means an officer authorised by the Secretary for the purposes of the provision in which it occurs.

award course means a course of education or training leading to:

(a) the completion of a primary or secondary education program; or

(b) a degree, diploma, trade certificate or other formal award.

balance of family test has the meaning set out in regulation 1.05.

base application charge means the charge explained in subregulation 2.12C(3).

bilateral adoption arrangement means an arrangement between Australia and another country that allows the adoption of a child from the other country to be recognised in Australia under the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 2023*.

British National (Overseas) passport means a passport issued by the United Kingdom of Great Britain and Northern Ireland to a person who is identified in the passport as having a form of British nationality described as British National (Overseas).

business innovation and investment points test means the test set out in Schedule 7A.

Note: This test relates to Business Skills (Provisional) (Class EB) visas.

business visitor activity:

(a) means any of the following activities undertaken by a person:

(i) making a general business or employment enquiry;

(ii) investigating, negotiating, entering into, or reviewing a business contract;

(iii) an activity carried out as part of an official government to government visit;

(iv) participation in a conference, trade fair or seminar in Australia unless the person is being paid by an organiser for participation; but

(b) does not include either of the following activities:

(i) an activity that is, or includes, undertaking work for, or supplying services to, an organisation or other person based in Australia;

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(ii) an activity that is, or includes, the sale of goods or services directly to the general public.

Note: An example for paragraph (b) is making a general business enquiry of an organisation based in Australia and also undertaking work for the organisation as part of investigating a business opportunity.

carer has the meaning given by regulation 1.15AA.

carried out for an excluded employer: see subregulation 1.15FB(1).

CEO of Austrade means the Chief Executive Officer of the Australian Trade and Investment Commission referred to in section 7B of the *Australian Trade and Investment Commission Act 1985*.

certifying entity has the meaning given by subregulation 1.15R(1).

clearance officer has the meaning given by section 165 of the Act.

Note: the definition is:

clearance officer means an officer, or other person, authorised by the Minister to perform duties for the purposes of [Division 5 of Part 2 of the Act].

client number means a client identification number generated by an electronic system maintained by or on behalf of Immigration.

close relative, in relation to a person, means:

(a) the spouse or de facto partner of the person; or

(b) a child, parent, brother or sister of the person; or

(c) a step-child, step-brother or step-sister of the person.

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

Commissioner means a Commissioner appointed under section 203 of the Act.

Commonwealth country means each of the following countries:

(a) Antigua;

(b) Bahamas;

(c) Barbados;

(d) Belize;

(e) Canada;

(f) Grenada;

(g) Jamaica;

(h) Mauritius;

(j) New Zealand;

(k) Papua New Guinea;

(l) Saint Lucia;

(m) Saint Vincent and the Grenadines;

(n) Solomon Islands;

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(p) St Christopher and Nevis;
(q) Tuvalu;
(r) the United Kingdom of Great Britain and Northern Ireland.

Commonwealth forces member means a person who:
(a) is a member of the armed forces of a Commonwealth country; and
(b) is travelling to Australia, or is in Australia, in the course of his or her duty; and
(c) holds military identity documents and movement orders issued from an official source of the relevant country.

Commonwealth Medical Officer means a medical practitioner employed or engaged by the Australian government.

community safety order has the same meaning as in Division 395 of the *Criminal Code*.

community services includes the provision of an Australian social security benefit, allowance or pension.

compelling need to work has the meaning set out in regulation 1.08.

competent authority, in relation to an adoption (including a prospective adoption), means:
(a) for Australia:
(i) in the case of an adoption to which the Adoption Convention applies—a State Central Authority within the meaning of the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*; and
(ii) in the case of an adoption to which a bilateral adoption arrangement applies—a competent authority within the meaning of paragraph (b) of the definition of ***competent authority*** in subsection 4(1) of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 2023*; and
(iii) in any other case—the child welfare authorities of an Australian State or Territory; and
(b) for an Adoption Convention country—a Central Authority within the meaning of the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*; and
(c) for an overseas jurisdiction that is declared under section 5 of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 2023* to be a prescribed overseas jurisdiction for the purposes of that instrument—a person, body or office in the prescribed overseas jurisdiction responsible for approving the adoption of children; and
(d) for any other overseas country—a person, body or office in that overseas country responsible for approving the adoption of children.

competent English has the meaning given by regulation 1.15C.

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complying entrepreneur activity: see regulation 5.19E.

complying investment—see regulation 5.19B.

complying premium investment: see regulation 5.19D.

complying significant investment: see regulation 5.19C.

concession period: see regulation 1.15N.

condition means a condition set out in a clause of Schedule 8, and a reference to a condition by number is a reference to the condition set out in the clause so numbered in that Schedule.

confirmation of enrolment, in relation to a student and a registered provider, means a confirmation by the registered provider that the student is enrolled in a registered course provided by the registered provider, as required by section 19 of the *Education Services for Overseas Students Act 2000*.

contact hours, for a course for a period, means the total number of hours in the period for which students enrolled in the course are scheduled to attend classes for teaching purposes, course-related information sessions, supervised study sessions and examinations.

contributory parent newborn child means:

(a) a child (other than an adopted child) of a parent, born at a time when that parent holds:
  (i) a Subclass 173 (Contributory Parent (Temporary)) visa; or
  (ii) a bridging visa if the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa; or

(b) a child (other than an adopted child) of a parent, born at a time when that parent holds:
  (i) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
  (ii) a bridging visa if the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

COVID-19 affected visa means an offshore COVID-19 affected visa or an onshore COVID-19 affected visa.

criminal detention has the meaning set out in regulation 1.09.

critical technology means:

(a) technology of a kind specified for the purposes of this definition by the Minister under subregulation 1.15Q(2); or

(b) property of every description (whether tangible or intangible) that is:
  (i) part of; or
  (ii) a result of; or
  (iii) used for the purposes of researching, testing, developing or manufacturing;

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any technology of a kind specified for the purposes of this definition by the Minister under subregulation 1.15Q(2).

custody, in relation to a child, means:

(a) the right to have the daily care and control of the child; and

(b) the right and responsibility to make decisions concerning the daily care and control of the child.

Defence means the Department of Defence.

Defence Minister means the Minister for Defence.

Defence student has the meaning given in regulation 1.04B.

dependent has the meaning given by regulation 1.05A.

dependent child, of a person, means the child or step-child of the person (other than a child or step-child who is engaged to be married or has a spouse or de facto partner), being a child or step-child who:

(a) has not turned 18; or

(b) has turned 18 and:

(i) is dependent on that person; or

(ii) is incapacitated for work due to the total or partial loss of the child's or step-child's bodily or mental functions.

designated APEC economy means an APEC economy specified in a legislative instrument made by the Minister for the purposes of this definition.

designated area means an area specified as a designated area by the Minister in an instrument in writing for this definition.

designated city or major regional centre has the meaning given by subregulation 1.15M(1).

designated foreign dignitary means a person to whom subregulation 3.06A(1) or (5) applies.

designated regional area means:

(a) a designated city or major regional centre; or

(b) a regional centre or other regional area.

earnings has a meaning affected by regulation 2.57A.

Education means the Department administered by the Education Minister.

Education Minister means the Minister administering the *Australian Education Act 2013*.

education provider, for a registered course in a location, means each institution, body or person that is a registered provider of the course in that location, for the *Education Services for Overseas Students Act 2000*.

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electronic communication has the same meaning as in the *Electronic Transactions Act 1999*.

ELICOS means an English Language Intensive Course for Overseas Students that is a registered course.

eligible business has the meaning given to it in subsection 134(10) of the Act.

eligible New Zealand citizen means a New Zealand citizen who is a protected SCV holder within the meaning of section 7 of the *Social Security Act 1991*.

Employment Minister means the Minister responsible for employment policy, including employment services.

entertainment sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the entertainment sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

entry permit has the meaning given by subsection 4(1) of the Act as in force immediately before 1 September 1994, and includes an entry visa operating as an entry permit.

entry visa has the meaning given by subsections 4(1) and 17(5) of the Act as in force immediately before 1 September 1994.

ETA-eligible passport has the meaning given in regulation 1.11B.

eVisitor eligible passport has the meaning given by regulation 1.11C.

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

(a) under a regulatory regime:

(i) governed by the central bank (or its equivalent) of the country in which the body corporate operates; and

(ii) that the Minister is satisfied provides effective prudential assurance; and

(b) in a way that the Minister is satisfied complies with effective prudential assurance requirements.

fiscal year, in relation to a business or investment, means:

(a) if there is applicable to the business or investment by law an accounting period of 12 months—that period; or

(b) in any other case—a period of 12 months approved by the Minister in writing for that business or investment.

Foreign Affairs means the Department of Foreign Affairs and Trade.

Foreign Affairs recipient: see subregulation 1.04A(2).

Foreign Affairs student: see subregulation 1.04A(3).

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foreign armed forces dependant means a person who:

(a) is the spouse or de facto partner of, or a dependent relative of:
  (i) an Asia-Pacific forces member; or
  (ii) a Commonwealth forces member; or
  (iii) a SOFA forces member, other than one who is, for the purposes of a Status of Forces Agreement between Australia and Japan, a member of the armed forces of Japan; or
  (iv) a SOFA forces civilian component member, other than one who is, for the purposes of a Status of Forces Agreement between Australia and Japan, a member of the civilian component of the armed forces of Japan; and
(b) holds a valid national passport and a certificate that he or she is the spouse or de facto partner, or a dependent relative, of a person referred to in subparagraph (a)(i), (ii), (iii) or (iv); and
(c) is accompanying or joining a person of that kind.

Foreign Minister means the Minister for Foreign Affairs.

foreign naval forces member means a person who forms part of the complement of a ship of the regular armed forces of a foreign government and is on board the ship.

gateway airport has the meaning given by subregulation 5.41C(3).

General Skilled Migration visa means a Subclass 175, 176, 189, 190, 475, 476, 485, 487, 489, 491, 885, 886 or 887 visa, granted at any time.

government entity means:

(a) a Department, agency or authority of the Commonwealth, a State or a Territory; or
(b) a person who holds an office or appointment under a law of the Commonwealth, a State or a Territory.

guardian, in relation to a child, means a person who:

(a) has responsibility for the long-term welfare of the child; and
(b) has, in relation to the child, all the powers, rights and duties that are vested by law or custom in the guardian of a child, other than:
  (i) the right to have the daily care and control of the child; and
  (ii) the right and responsibility to make decisions concerning the daily care and control of the child.

guest of Government means:

(a) an official guest of the Australian government; or
(b) a member of the immediate family of the official guest of the Australian Government, who is accompanying the official guest.

has an outstanding public health debt has the meaning given by regulation 1.15K.

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home country, in relation to a person, means:

(a) the country of which the person is a citizen; or

(b) if the person is not usually resident in that country, the country of which the person is usually a resident.

Hong Kong means the Hong Kong Special Administrative Region of the People's Republic of China.

Hong Kong passport means a Hong Kong Special Administrative Region of the People's Republic of China passport.

human trafficking includes activities such as trafficking in persons, organ trafficking and debt bondage.

IELTS test means the International English Language Testing System test.

Immigration means the Department administered by the Minister administering the *Migration Act 1958*.

in Australia means in the migration zone.

international air carrier has the meaning given by subsection 504(6) of the Act.

international traveller has the meaning given by subregulation 5.41C(3).

Internet application means an application for a visa made using a form mentioned in paragraph 1.18(2)(b) that is sent to Immigration by electronic transmission using a facility made available at an Internet site mentioned in subparagraph 1.18(2)(b)(ii), in a way authorised by that facility.

labour agreement means a formal agreement entered into between:

(a) the Minister, or the Employment Minister; and

(b) a person or organisation in Australia;

under which an employer is authorised to recruit persons to be employed by that employer in Australia.

long stay activity sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the long stay activity sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

long-term partner relationship, in relation to an applicant for a visa, means a relationship between the applicant and another person, each as the spouse or de facto partner of the other, that has continued:

(a) if there is a dependent child (other than a step-child) of both the applicant and the other person—for not less than 2 years; or

(b) in any other case—for not less than 3 years.

Macau means the Macau Special Administrative Region of the People's Republic of China.

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main business has the meaning set out in regulation 1.11.

managed fund means an investment to which all of the following apply:

(a) the investment is made by a member:
  (i) acquiring interests in a managed investment scheme (within the meaning of the *Corporations Act 2001*); or
  (ii) acquiring a financial product mentioned in paragraph 764A(1)(d), (e) or (f) of the *Corporations Act 2001* that may result in a payment from an approved benefit fund (within the meaning of the *Life Insurance Act 1995*), or a statutory fund maintained under the *Life Insurance Act 1995*;

(b) the investment is not able to be traded on a financial market (within the meaning of section 767A of the *Corporations Act 2001*);

(c) if the investment is interests in a managed investment scheme—no representation has been made to any member of the scheme that the interests will be able to be traded on a financial market;

(d) the issue of the interest or the financial product is covered by an Australian financial services licence issued under section 913B of the *Corporations Act 2001*.

Medical Officer of the Commonwealth means a medical practitioner appointed by the Minister in writing under regulation 1.16AA to be a Medical Officer of the Commonwealth for the purposes of these Regulations.

member of the crew, in relation to a non-military ship or superyacht:

(a) means any of the following persons:
  (i) a person who is involved in the usual day to day routine maintenance or business of the ship or superyacht while it is at sea, including a supernumerary member of the crew;
  (ii) for a ship described in subparagraph (a)(ii) of the definition of ***non-military ship***—a person who is engaged in scientific research conducted on or from the ship;

  whether the person works as an employee, a contractor or in another capacity; but

(b) does not include a person who only works on a ship or superyacht while it is in port or dry dock unless that person:
  (i) travelled with the ship or superyacht to reach the port or dry dock; or
  (ii) travels with the ship or superyacht after completing the work in port or dry dock.

member of the family unit has the meaning set out in regulation 1.12.

Note: For ***member of the same family unit***, see subsection 5(1) of the Act.

member of the immediate family has the meaning given by regulation 1.12AA.

member of the Royal Family means a member of the Queen's immediate family.

member of the Royal party includes:

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(a) a member of the personal staff of the Queen who is accompanying Her Majesty in Australia; and
(b) a member of the personal staff of a member of the Royal Family, being a staff member who is accompanying that member of the Royal Family in Australia; and
(c) a media representative accompanying the official party of the Queen or of a member of the Royal Family in Australia; and
(d) a person who is accompanying the Queen or a member of the Royal Family in Australia as a member of the official party of the Queen or the member of the Royal Family.

Migration (1959) Regulations means the Regulations comprising Statutory Rules 1959 No. 35 and those Regulations as amended from time to time.

Migration (1989) Regulations means the Regulations comprising Statutory Rules 1989 No. 365 and those Regulations as amended from time to time.

Migration (1993) Regulations means the Regulations comprising Statutory Rules 1992 No. 367 and those Regulations as amended from time to time.

Note: The Migration (1993) Regulations are listed in full in Part 1 of the Schedule to the Migration Reform (Transitional Provisions) Regulations. They are repealed by regulation 42 of those Regulations but continue to apply to certain matters.

nomination end day, in relation to a nomination under subsection 140GB(1) of the Act, means the day 3 months after the sponsorship end day in relation to the nomination.

nominator has the meaning given by regulation 1.13.

non-award course means a course of education or training that is not an award course.

non-Internet application charge means the charge explained in subregulations 2.12C(7) to (9).

non-military ship:
(a) means a ship:
(i) that is engaged in:
(A) commercial trade; or
(B) the carriage of passengers for reward; or
(ii) that is owned and operated by a foreign government for the purposes of scientific research; or
(iii) that has been accorded public vessel status by Foreign Affairs; or
(iv) that:
(A) has been imported under section 49A of the *Customs Act 1901*; and
(B) is registered in the Australian International Shipping Register; or
(v) that:

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(A) has been entered for home consumption under section 71A of that Act; and

(B) is registered in the Australian International Shipping Register; and

(b) does not include a ship:

(i) that:

(A) has been imported under section 49A of the *Customs Act 1901*; and

(B) is not registered in the Australian International Shipping Register; or

(ii) that:

(A) has been entered for home consumption under section 71A of that Act; and

(B) is not registered in the Australian International Shipping Register.

non-monetary benefits has the meaning given by subregulation 2.57A(3).

office of Immigration includes an office occupied by an officer of Immigration at an airport or a detention centre.

offshore COVID-19 affected visa means:

(a) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, covered by subregulation 1.15P(1); or

(b) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, of a kind specified for the purposes of this definition by the Minister under subregulation 1.15P(2).

onshore COVID-19 affected visa means:

(a) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, covered by subregulation 1.15P(2A); or

(b) a Subclass 417 (Working Holiday) visa, or a Subclass 462 (Work and Holiday) visa, of a kind specified for the purposes of this definition by the Minister under subregulation 1.15P(2B).

oral application, in relation to a visa, means an application made in accordance with regulation 2.09.

orphan relative has the meaning set out in regulation 1.14.

outside Australia means outside the migration zone.

outstanding: a parent visa application is outstanding if none of the following has occurred:

(a) the application has been withdrawn;

(b) each decision that has been made in respect of the application is not, or is no longer, subject to any form of review by the ART or judicial review proceedings (including proceedings on appeal);

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(c) a decision that has been made in respect of the application was subject to review by the ART or judicial review proceedings (including proceedings on appeal) but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed.

overseas business sponsor means a standard business sponsor who was lawfully operating a business outside Australia and was not lawfully operating a business in Australia at the time:

(a) the approval as a standard business sponsor was granted; or

(b) if a term of the approval as a standard business sponsor has been varied—of the most recent variation.

overseas flight has the meaning given by subregulation 5.41C(3).

overseas passenger means:

(a) in relation to a vessel arriving at a port in Australia in the course of, or at the conclusion of, an overseas voyage—a passenger:

(i) who:

(A) was on board the vessel when it left a place outside Australia at the commencement of, or during the course of, the voyage; and

(B) whose journey in the vessel ends in Australia; or

(ii) who:

(A) was on board the vessel when it left a place outside Australia at the commencement of, or during the course of, the voyage; and

(B) intends to journey in the vessel to a place outside Australia; and

(b) in relation to a vessel leaving a port in Australia and bound for or calling at a place outside Australia—a passenger on board the vessel who:

(i) joined the vessel at a port in Australia; and

(ii) intends to journey in the vessel to or beyond that place outside Australia.

Note: Under the Act, ***vessel*** includes an aircraft, and ***port*** includes an airport.

overseas voyage, in relation to a vessel, means a voyage that commenced at, or during which the vessel called at, a place outside Australia.

ownership interest has the meaning given to it in subsection 134(10) of the Act.

parenting order has the meaning given by subsection 64B(1) of the *Family Law Act 1975*.

parent sponsor means a person who has been approved as a family sponsor in relation to the parent sponsor class under subsection 140E(1A) of the Act.

parent visa means a visa of a class that is specified in Schedule 1 using the word ‘parent’ in the title of the visa.

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parole means conditional release from prison before the completion of a sentence of imprisonment.

passenger card means a card of the kind referred to in section 506 of the Act.

periodic detention means a system of restriction of liberty by which periods at liberty alternate with periods in prison, and includes the systems of intermittent imprisonment known as day release and weekend release.

permanent entry permit means an entry permit that had effect without limitation as to time.

permanent entry visa means an entry visa that operated as, or was capable of operating as, a permanent entry permit.

permanent humanitarian visa means:

(a) a Subclass 200, 201, 202, 203, 204, 209, 210, 211, 212, 213, 215, 216, 217 or 866 visa; or

(aa) a Resolution of Status (Class CD) visa; or

(b) a Group 1.3 or Group 1.5 (Permanent resident (refugee and humanitarian)) visa or entry permit within the meaning of the Migration (1993) Regulations; or

(c) a humanitarian visa, or equivalent entry permit, within the meaning of the Migration (1989) Regulations; or

(d) a transitional (permanent) visa, within the meaning of the Migration Reform (Transitional Provisions) Regulations, being:

(i) such a visa granted on the basis of an application for a visa, or entry permit, of a kind specified in paragraph (b) or (c); or

(ii) a visa or entry permit of a kind specified in paragraph (b) or (c) having effect under those Regulations as a transitional (permanent) visa.

personal identifier has the meaning given by section 5A of the Act.

petroleum has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

petroleum export tanker crew member: a person is a ***petroleum export tanker crew member*** if:

(a) the person is a member of the crew of a non-military ship; and

(b) the person enters one or more areas while on board the ship to participate in, or support, an offshore resources activity in relation to that area or those areas involving the recovery of petroleum; and

(c) under subsection 9A(1) of the Act, the person is taken, for the purposes of the Act, to be in the migration zone while the person is in the area or those areas to participate in, or support, such an activity; and

(d) before the person so enters the area, or the first of the areas, the ship's last port of departure was a port outside Australia; and

(e) the recovered petroleum will be received by the ship for export; and

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(f) the person will depart from the area, or the last of the areas, on board the ship for a port outside Australia.

points system means the system of assessment under Subdivision B of Division 3 of Part 2 of the Act.

PRC means the People's Republic of China.

prescribed form means a form set out in Schedule 10, and a reference to a prescribed form by number is a reference to the form so numbered in that Schedule.

primary sponsored person has the meaning given by subregulation 2.57(1).

professional development sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the professional development sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

proficient English has the meaning given by regulation 1.15D.

program of seasonal work means arrangements for the performance of seasonal work in Australia that have been approved, in writing, by the Secretary of a Commonwealth Department as a program of seasonal work for the purposes of this definition.

prohibited non-citizen means a person who, on or before 18 December 1989, was a prohibited non-citizen within the meaning of the Act as in force at that time.

proliferation of weapons of mass destruction includes directly or indirectly assisting in the development, production, trafficking, acquisition or stockpiling of:

(a) weapons that may be capable of causing mass destruction; or

(b) missiles or other devices that may be capable of delivering such weapons.

protection visa has the meaning given by section 35A of the Act.

Note: Section 35A of the Act covers the following:

(a) permanent protection visas (classified by these Regulations as Protection (Class XA) visas when this definition commenced);

(b) other protection visas formerly provided for by subsection 36(1) of the Act;

(c) temporary protection visas (classified by these Regulations as Temporary Protection (Class XD) visas when this definition commenced);

(d) any additional classes of permanent or temporary visas that are prescribed as protection visas by the regulations.

See also section 36 and Subdivision AL of Division 3 of Part 2 of the Act.

public interest criterion means a criterion set out in a clause of Part 1 of Schedule 4, and a reference to a public interest criterion by number is a reference to the criterion set out in the clause so numbered in that Part.

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qualifying business means an enterprise that:

(a) is operated for the purpose of making profit through the provision of goods, services or goods and services (other than the provision of rental property) to the public; and

(b) is not operated primarily or substantially for the purpose of speculative or passive investment.

regional centre or other regional area has the meaning given by subregulation 1.15M(2).

regional provisional visa means:

(a) a Subclass 491 (Skilled Work Regional (Provisional)) visa; or

(b) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

registered course means a course of education or training provided by an institution, body or person that is registered, under Division 3 of Part 2 of the *Education Services for Overseas Students Act 2000*, to provide the course to overseas students.

Note: A current list of registered courses appears in the Commonwealth Register of Institutions and Courses for Overseas Students kept under section 10 of the *Education Services for Overseas Students Act 2000*.

relative, in relation to a person, means:

(a) in the case of an applicant for a Subclass 200 (Refugee) visa or a protection visa:

(i) a close relative; or

(ii) a grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew; or

(iii) a first or second cousin; or

(b) in any other case:

(i) a close relative; or

(ii) a grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew.

Note: ***Close relative*** is defined in this regulation: see above.

relevant assessing authority means a person or body specified under regulation 2.26B.

religious institution means a body:

(a) the activities of which reflect that it is a body instituted for the promotion of a religious object; and

(b) the beliefs and practices of the members of which constitute a religion due to those members:

(i) believing in a supernatural being, thing or principle; and

(ii) accepting the canons of conduct that give effect to that belief, but that do not offend against the ordinary laws; and

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(c) that meets the requirements of section 50-50 of the *Income Tax Assessment Act 1997*; and
(d) the income of which is exempt from income tax under section 50-1 of that Act.

remaining relative has the meaning set out in regulation 1.15.

Schedule 3 criterion means a criterion set out in a clause of Schedule 3, and a reference to a Schedule 3 criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.

school-age dependant, in relation to a person, means a member of the family unit of the person who has turned 5, but has not turned 18.

score, in relation to a language test, means any score or result, however described, from the test, including any combination of scores or results from the test or components of the test.

secondary exchange student means an overseas secondary school student participating in a secondary school student exchange program approved by the State or Territory education authority that administers the program.

secondary sponsored person has the meaning given by subregulation 2.57(1).

Secretary of Social Services means the Secretary of the Department that is administered by the Minister administering section 1061ZZGD of the *Social Security Act 1991*.

settled, in relation to an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, means lawfully resident in Australia for a reasonable period.

skilled occupation has the meaning given by regulation 1.15I.

Skills Assessment Department means the Department administered by the Skills Assessment Minister.

Skills Assessment Minister means the Minister responsible for skills assessment services.

Skills Assessment Secretary means the Secretary of the Skills Assessment Department.

SOFA forces civilian component member means a person who:
(a) is, for the purposes of a Status of Forces Agreement between Australia and France, Japan, Malaysia, New Zealand, Papua New Guinea, the Republic of the Philippines, Singapore, Turkey or the United States of America, a member of the civilian component of the armed forces of one of those countries; and
(b) holds a national passport that is in force and a certificate that he or she is a member of the civilian component of the armed forces of the relevant country.

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SOFA forces member means a person who:

(a) is, for the purposes of a Status of Forces Agreement between Australia and France, Japan, Malaysia, New Zealand, Papua New Guinea, the Republic of the Philippines, Singapore, Turkey or the United States of America, a member of the armed forces of one of those countries; and

(b) holds military identity documents and movement orders issued from an official source of the relevant country.

special processing area has the meaning given by subregulation 5.41C(3).

special program sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the special program sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

special return criterion means a criterion set out in a clause of Schedule 5, and a reference to a special return criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.

specified Subclass 417 work means work that:

(a) was carried out in one or more areas of Australia specified for the purposes of this definition by the Minister under regulation 1.15FAA; and

(b) was of one or more kinds specified for the purposes of this definition by the Minister under regulation 1.15FAA.

specified Subclass 462 work means work that:

(a) was carried out in one or more areas of Australia specified for the purposes of this definition by the Minister under regulation 1.15FA; and

(b) was of one or more kinds specified for the purposes of this definition by the Minister under regulation 1.15FA.

sponsor has the meaning given by subregulation 1.20(1).

sponsorship means an undertaking of the kind referred to in regulation 1.20 to sponsor an applicant.

sponsorship end day, in relation to a nomination under subsection 140GB(1) of the Act, means the day on which the approval as a standard business sponsor of the person who made the nomination ceases.

standard business sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the standard business sponsor class by the Minister under subsection 140E(1) of the Act.

statutory function has the meaning given by subregulation 5.41C(3).

step-child, in relation to a parent, means:

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(a) a person who is not the child of the parent but who is the child of the parent's current spouse or de facto partner; or

(b) a person who is not the child of the parent but:

(i) who is the child of the parent's former spouse or former de facto partner; and

(ii) who has not turned 18; and

(iii) in relation to whom the parent has:

(A) a parenting order in force under the *Family Law Act 1975* under which the parent is the person with whom a child is to live, or who is to be responsible for the child's long-term or day-to-day care, welfare and development; or

(B) guardianship or custody, whether jointly or otherwise, under a Commonwealth, State or Territory law or a law in force in a foreign country.

student visa means any of the following subclasses of visa:

(aa) a Subclass 500 (Student) visa;

(a) a Subclass 570 (Independent ELICOS Sector) visa;

(b) a Subclass 571 (Schools Sector) visa;

(c) a Subclass 572 (Vocational Education and Training Sector) visa;

(d) a Subclass 573 (Higher Education Sector) visa;

(e) a Subclass 574 (Postgraduate Research Sector) visa;

(f) a Subclass 575 (Non-Award Sector) visa;

(g) a Subclass 576 (Foreign Affairs or Defence Sector) visa.

Subclass 420 (Entertainment) visa includes a Subclass 420 (Temporary Work (Entertainment)) visa.

Note: Amendments of these Regulations that commenced on 24 November 2012 renamed the Subclass 420 (Entertainment) visa.

Subclass 576 (Foreign Affairs or Defence Sector) visa includes a Subclass 576 (AusAID or Defence Sector) visa.

Note: Amendments of these Regulations that commenced on 1 July 2014 renamed the Subclass 576 (AusAID or Defence Sector) visa.

subsequent temporary application charge means the charge explained in subregulations 2.12C(5) and (6).

substituted Subclass 600 visa means:

(a) a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act; or

(b) a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act.

Note: Before these Regulations were amended on 23 March 2013, a visa described in paragraph (b) was referred to as a "substituted Subclass 676 visa".

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superior English has the meaning given by regulation 1.15EA.

superyacht means a sailing ship or motor vessel of a kind that is specified by the Minister under regulation 1.15G to be a superyacht.

superyacht crew sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the superyacht crew sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

temporary activities sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the temporary activities sponsor class by the Minister under subsection 140E(1) of the Act.

temporary work sponsor means any of the following:

(a) a special program sponsor;

(b) an entertainment sponsor;

(c) a superyacht crew sponsor;

(d) a long stay activity sponsor;

(e) a training and research sponsor.

the Act means the *Migration Act 1958*.

tourism means participation in activities of a recreational nature including amateur sporting activities, informal study courses, relaxation, sightseeing and travel.

TPV/SHEV transition day means the day Schedule 1 to the *Migration Amendment (Transitioning TPV/SHEV Holders to Resolution of Status Visas) Regulations 2023* commences.

training and research sponsor means a person who:

(a) is an approved work sponsor; and

(b) is approved as a work sponsor in relation to the training and research sponsor class by the Minister under subsection 140E(1) of the Act, on the basis of an application made before 19 November 2016.

transitional 457 worker means a person who held a Subclass 457 (Temporary Work (Skilled)) visa at any time occurring on or after 18 April 2017.

transitional 482 worker means a person who on 20 March 2019:

(a) held a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream; or

(b) was an applicant for a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream that was subsequently granted.

transit passenger means a person who:

(a) enters Australia by aircraft; and

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(b) holds a confirmed onward booking to leave Australia to travel to a third country on the same or another aircraft within 8 hours of the person's arrival in Australia; and

(d) holds documentation necessary to enter the country of his or her destination.

unwanted transfer of critical technology has the meaning given by subregulation 1.15Q(1).

vocational English has the meaning given in regulation 1.15B.

work means an activity that, in Australia, normally attracts remuneration.

working age means:

(a) in the case of a female, under 60 years of age; and

(b) in the case of a male, under 65 years of age.

workplace exploitation matter has the meaning given by subregulation 1.15R(2).

1.04 Adoption

(1) A person (in this regulation called ***the adoptee***) is taken to have been adopted by a person (in this regulation called ***the adopter***) if, before the adoptee attained the age of 18 years, the adopter assumed a parental role in relation to the adoptee under:

(a) formal adoption arrangements made in accordance with, or recognised under, the law of a State or Territory of Australia relating to the adoption of children; or

(b) formal adoption arrangements made in accordance with the law of another country, being arrangements under which the persons who were recognised by law as the parents of the adoptee before those arrangements took effect ceased to be so recognised and the adopter became so recognised; or

(c) other arrangements entered into outside Australia that, under subregulation (2), are taken to be in the nature of adoption.

(2) For the purposes of paragraph (1)(c), arrangements are taken to be in the nature of adoption if:

(a) the arrangements were made in accordance with the usual practice, or a recognised custom, in the culture or cultures of the adoptee and the adopter; and

(b) the child-parent relationship between the adoptee and the adopter is significantly closer than any such relationship between the adoptee and any other person or persons, having regard to the nature and duration of the arrangements; and

(c) the Minister is satisfied that:

(i) formal adoption of the kind referred to in paragraph (1)(b):

(A) was not available under the law of the place where the arrangements were made; or

(B) was not reasonably practicable in the circumstances; and

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(ii) the arrangements have not been contrived to circumvent Australian migration requirements.

1.04A Foreign Affairs recipients and Foreign Affairs students

(1) In this regulation:

cease, in relation to a full-time course of study or training, includes to complete, to withdraw from, or to be excluded from, that course.

Foreign Affairs student visa means a student visa granted to a person who, as an applicant:

(a) satisfied the primary criteria for the grant of the visa; and

(b) was a student in a full-time course of study or training under a scholarship scheme or training program approved by the Foreign Minister or AusAID Minister.

(2) A person is a ***Foreign Affairs recipient*** if:

(a) either:

(i) the person is the holder of a Foreign Affairs student visa and has ceased:

(A) the full-time course of study or training to which that visa relates; or

(B) another course approved by the Foreign Minister or AusAID Minister in substitution for that course; or

(ii) if the person is not the holder of a Foreign Affairs student visa—the person has in the past been the holder of a Foreign Affairs student visa and has ceased:

(A) the full-time course of study or training to which the last Foreign Affairs student visa held by the person related; or

(B) another course approved by the Foreign Minister or AusAID Minister in substitution for that course; and

(b) the person has not spent at least 2 years outside Australia since ceasing the course.

(3) A person is a ***Foreign Affairs student*** if:

(a) the person has been approved by the Foreign Minister or AusAID Minister to undertake a full-time course of study or training under a scholarship scheme or training program approved by the Foreign Minister or AusAID Minister; and

(b) the person is:

(i) the holder of a Foreign Affairs student visa granted in circumstances where the person intended to undertake the full-time course of study or training; or

(ii) an applicant for a student visa whose application shows an intention to undertake a full-time course of study or training; and

(c) in the case of a person mentioned in subparagraph (b)(i)—the person has not ceased:

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(i) the full-time course of study or training to which the visa relates; or
(ii) another course approved by the Foreign Minister or AusAID Minister in substitution for that course.

1.04B Defence student

A person is a ***Defence student*** if:

(a) the person has been approved by the Defence Minister to undertake a full-time course of study or training under a scholarship scheme or training program approved by the Defence Minister; and
(b) the person is:
(i) the holder of a student visa granted in circumstances where the person intended to undertake the course of study or training; or
(ii) an applicant for a student visa whose application shows an intention to undertake the course of study or training; and
(c) in the case of a person mentioned in subparagraph (b)(i)—the person has not ceased, completed, withdrawn from, or been excluded from:
(i) the course of study or training to which the visa relates; or
(ii) another course approved by the Defence Minister in substitution for that course.

1.05 Balance of family test

(1) For the purposes of this regulation:
(a) a person is a child of another person (the ***parent***) if the person is a child or step-child of:
(i) the parent; or
(ii) a current spouse or current de facto partner of the parent; and
(b) if the whereabouts of a child of the parent are unknown, the child is taken to be resident in the child's last known usual country of residence.

(2) For this regulation:
(a) a child of the parent is an ***eligible child*** if the child is:
(i) an Australian citizen; or
(ii) an Australian permanent resident usually resident in Australia; or
(iii) an eligible New Zealand citizen usually resident in Australia; and
(b) any other child of the parent is an ***ineligible child***.

(2A) An ineligible child is taken to be resident overseas.

(2B) The overseas country in which an ineligible child is taken to reside is:
(a) the overseas country in which the child is usually resident; or
(b) the last overseas country in which the child was usually resident; or
(c) if the child no longer has a right of return to the country mentioned in paragraph (a) or (b)—the child's country of citizenship.

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(2C) A parent satisfies the balance of family test if the number of eligible children is greater than or equal to the number of ineligible children.

(2D) However, if the greatest number of children who are:

(a) ineligible children; and

(b) usually resident in a particular overseas country;

is less than the number of eligible children, then the parent satisfies the balance of family test.

(3) In applying the balance of family test, no account is to be taken of a child of the parent:

(a) if the child has been removed by court order, by adoption or by operation of law (other than in consequence of marriage) from the exclusive custody of the parent; or

(b) if the child is resident in a country where the child suffers persecution or abuse of human rights and it is not possible to reunite the child and the parent in another country; or

(c) if the child:

(i) is resident in a refugee camp operated by the United Nations High Commissioner for Refugees; and

(ii) is registered by the Commissioner as a refugee.

1.05A Dependent

(1) Subject to subregulation (2), a person (the ***first person***) is dependent on another person if:

(a) at the time when it is necessary to establish whether the first person is dependent on the other person:

(i) the first person is, and has been for a substantial period immediately before that time, wholly or substantially reliant on the other person for financial support to meet the first person's basic needs for food, clothing and shelter; and

(ii) the first person's reliance on the other person is greater than any reliance by the first person on any other person, or source of support, for financial support to meet the first person's basic needs for food, clothing and shelter; or

(b) the first person is wholly or substantially reliant on the other person for financial support because the first person is incapacitated for work due to the total or partial loss of the first person's bodily or mental functions.

(2) A person (the ***first person***) is dependent on another person for the purposes of an application for:

(d) a protection visa; or

(ea) a Refugee and Humanitarian (Class XB) visa; or

(i) a Temporary Safe Haven (Class UJ) visa;

if the first person is wholly or substantially reliant on the other person for financial, psychological or physical support.

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1.06 References to classes of visas

A class of visas may be referred to:

(a) in the case of a class of visas referred to in Schedule 1—by the code allotted to the class in the heading of the item in Schedule 1 that relates to that class of visas; or

(b) in the case of a transitional visa, by the following codes:

(i) transitional (permanent): BF;

(ii) transitional (temporary): UA.

Note: For example, a Special Program (Temporary) (Class TE) visa may be referred to as a Class TE visa.

1.07 References to subclasses of visas

(1) A reference to a visa of a particular subclass (for example, 'a visa of Subclass 414') is a reference to a visa granted on satisfaction of the criteria for the grant of the visa, or the grant of the visa in a stream, set out in the Part of Schedule 2 that bears the number of the subclass.

Note: The criteria for the grant of the visa may include criteria described as a 'stream': see subregulation 2.03(1A).

(2) A reference to an applicant for a visa of a particular subclass is a reference to an applicant who applies for a visa of a class that may, under Schedule 1, be granted on satisfaction of the criteria for the grant of the visa, or the grant of the visa in a stream, set out in the Part of Schedule 2 that bears the number of the subclass.

Note: The criteria for the grant of the visa may include criteria described as a 'stream': see subregulation 2.03(1A).

1.08 Compelling need to work

For the purposes of these Regulations, a non-citizen has a compelling need to work if and only if:

(a) he or she is in financial hardship; or

(d) he or she:

(i) is an applicant for a Temporary Business Entry (Class UC) visa who seeks to satisfy the criteria for the grant of a Subclass 457 (Temporary Work (Skilled)) visa; and

(ii) is identified in an approved nomination of an occupation made by:

(A) a standard business sponsor; or

(B) a former standard business sponsor; or

(C) a party to a labour agreement;

who is specified in the application for that visa; and

(iii) appears to the Minister, on the basis of information contained in the application, to satisfy the criteria for the grant of that visa.

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1.09 Criminal detention

For the purposes of these Regulations, a person is in criminal detention if he or she is:

(a) serving a term of imprisonment (including periodic detention) following conviction for an offence; or

(b) in prison on remand;

but not if he or she is:

(c) subject to a community service order; or

(d) on parole after serving part of a term of imprisonment; or

(e) on bail awaiting trial.

1.09A De facto partner and de facto relationship

(1) For subsection 5CB(3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5CB(2)(a), (b), (c) and (d) of the Act exist.

Note 1: See regulation 2.03A for the prescribed criteria applicable to de facto partners.

Note 2: The effect of subsection 5CB(1) of the Act is that a person is the de facto partner of another person (whether of the same sex or a different sex) if the person is in a de facto relationship with the other person.

Subsection 5CB(2) sets out conditions about whether a de facto relationship exists, and subsection 5CB(3) permits the regulations to make arrangements in relation to the determination of whether 1 or more of those conditions exist.

(2) If the Minister is considering an application for:

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

(b) a Partner (Provisional) (Class UF) visa; or

(c) a Partner (Residence) (Class BS) visa; or

(d) a Partner (Temporary) (Class UK) visa;

the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).

(3) The matters for subregulation (2) are:

(a) the financial aspects of the relationship, including:

(i) any joint ownership of real estate or other major assets; and

(ii) any joint liabilities; and

(iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and

(iv) whether one person in the relationship owes any legal obligation in respect of the other; and

(v) the basis of any sharing of day-to-day household expenses; and

(b) the nature of the household, including:

(i) any joint responsibility for the care and support of children; and

(ii) the living arrangements of the persons; and

(iii) any sharing of the responsibility for housework; and

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(c) the social aspects of the relationship, including:
  (i) whether the persons represent themselves to other people as being in a de facto relationship with each other; and
  (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
  (iii) any basis on which the persons plan and undertake joint social activities; and
(d) the nature of the persons' commitment to each other, including:
  (i) the duration of the relationship; and
  (ii) the length of time during which the persons have lived together; and
  (iii) the degree of companionship and emotional support that the persons draw from each other; and
  (iv) whether the persons see the relationship as a long-term one.

(4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).

1.11 Main business

(1) For the purposes of these Regulations and subject to subregulation (2), a business is a main business in relation to an applicant for a visa if:
(a) the applicant has, or has had, an ownership interest in the business; and
(b) the applicant maintains, or has maintained, direct and continuous involvement in management of the business from day to day and in making decisions affecting the overall direction and performance of the business; and
(c) the value of the applicant's ownership interest, or the total value of the ownership interests of the applicant and the applicant's spouse or de facto partner, in the business is or was:
  (i) if the business is operated by a publicly listed company—at least 10% of the total value of the business; or
  (ii) if:
    (A) the business is not operated by a publicly listed company; and
    (B) the annual turnover of the business is at least AUD400 000;
  at least 30% of the total value of the business; or
  (iii) if:
    (A) the business is not operated by a publicly listed company; and
    (B) the annual turnover of the business is less than AUD400 000;
  at least 51% of the total value of the business; and
(d) the business is a qualifying business.

(2) If an applicant has, or has had, an ownership interest in more than 1 qualifying business that would, except for this subregulation, be a main business in relation to the applicant, the applicant must not nominate more than 2 of those qualifying businesses as main businesses.

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1.11A Ownership for the purposes of certain Parts of Schedule 2

(1) Subject to subregulation (4), for Parts 188, 888, 890, 891, 892 and 893 of Schedule 2, ownership by an applicant, or the applicant's spouse or de facto partner, of an asset, an eligible investment or an ownership interest, includes beneficial ownership only if the beneficial ownership is evidenced in accordance with subregulation (2).

(2) To evidence beneficial ownership of an asset, eligible investment or ownership interest, the applicant must show to the Minister:

(a) a trust instrument; or

(b) a contract; or

(c) any other document capable of being used to enforce the rights of the applicant, or the applicant's spouse or de facto partner, as the case requires, in relation to the asset, eligible investment or ownership interest;

stamped or registered by an appropriate authority under the law of the jurisdiction where the asset, eligible investment or ownership interest is located.

(3) A document shown under subregulation (2) does not evidence beneficial ownership, for subregulation (1), for any period earlier than the date of registration or stamping by the appropriate authority.

(4) Beneficial ownership is not required to be evidenced in accordance with subregulation (2) if the person who has legal ownership of the asset, eligible investment or ownership interest in relation to which the applicant, or the applicant's spouse or de facto partner, has beneficial ownership:

(a) is a dependent child of the applicant; and

(b) made a combined application with the applicant; and

(c) has not reached the age at which, in the jurisdiction where the asset, eligible investment or ownership interest is located, he or she can claim the benefits of ownership of the asset, eligible investment or ownership interest.

1.11B *ETA-eligible passport*

(1) A passport is an ETA-eligible passport in relation to an application for a visa if:

(a) it is a valid passport of a kind specified in a legislative instrument made by the Minister as an ETA-eligible passport; and

(b) the conditions (if any) specified in a legislative instrument made by the Minister for passports of that kind are satisfied in relation to that application.

(2) A passport is an ETA-eligible passport in relation to a visa of a particular Subclass if:

(a) it is an ETA-eligible passport in accordance with subregulation (1); and

(b) it is specified in a legislative instrument made by the Minister to be an ETA-eligible passport for that Subclass.

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(3) A passport is an ETA-eligible passport for the purposes of regulation 1.15J if it is a valid passport of a kind specified for paragraph (1)(a).

1.11C *eVisitor eligible passport*

A passport is an eVisitor eligible passport if:

(a) it is a valid passport of a kind specified by the Minister in an instrument in writing for this paragraph to be an eVisitor eligible passport; and

(b) the conditions (if any) specified in the instrument are satisfied.

1.12 Member of the family unit

Scope

(1) This regulation has effect for the purposes of the definition (the ***main definition***) of ***member of the family unit*** in subsection 5(1) of the Act.

General rule

(2) A person is a member of the family unit of another person (the ***family head***) if the person:

(a) is a spouse or de facto partner of the family head; or

(b) is a child or step-child of the family head or of a spouse or de facto partner of the family head (other than a child or step-child who is engaged to be married or has a spouse or de facto partner) and:

(i) has not turned 18; or

(ii) has turned 18, but has not turned 23, and is dependent on the family head or on the spouse or de facto partner of the family head; or

(iii) has turned 23 and is under paragraph 1.05A(1)(b) dependent on the family head or on the spouse or de facto partner of the family head; or

(c) is a dependent child of a person who meets the conditions in paragraph (b).

This subregulation has effect subject to the later subregulations of this regulation.

Protection, refugee and humanitarian visas

(3) Subregulation (4) has effect for the purposes of the main definition so far as it is relevant to a provision of the Act or these Regulations applying in relation to any of the following visas:

(a) a Protection (Class XA) visa;

(b) a Refugee and Humanitarian (Class XB) visa;

(c) a Temporary Protection (Class XD) visa;

(d) a Safe Haven Enterprise (Class XE) visa;

(e) a Resolution of Status (Class CD) visa;

(f) a Temporary Safe Haven (Class UJ) visa;

(g) a Temporary (Humanitarian Concern) (Class UO) visa;

(h) a Territorial Asylum (Residence) (Class BE) visa.

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(4) A person is a member of the family unit of another person (the ***family head***) if the person is:

(a) a spouse or de facto partner of the family head; or

(b) a dependent child of:

(i) the family head; or

(ii) a spouse or de facto partner of the family head; or

(c) a dependent child of a dependent child of:

(i) the family head; or

(ii) a spouse or de facto partner of the family head; or

(d) a relative, of the family head or of a spouse or de facto partner of the family head, who:

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

(ii) is usually resident in the family head's household; and

(iii) is dependent on the family head.

Member of the family unit of applicant for a new visa on the basis of earlier status as member of the family unit

(5) In addition to subregulation (2), a person is a member of the family unit, of an applicant for a visa (the ***new visa***) described in column 1 of an item of the following table who seeks to satisfy the primary criteria for the new visa, if, at the time of the application for the new visa, the person:

(a) is included in the application for the new visa; and

(b) holds a visa (the ***old visa***) described in column 2 of the item granted on the basis that the person was a member of the family unit of a person who held a visa of the same kind as the old visa.

Members of the family units of applicants for new visas

	Column 1 **New visa applied for**	**Column 2** **Old visa person holds at time of application for new visa**
1	Contributory Parent (Migrant) (Class CA) visa	Contributory Parent (Temporary) (Class UT) visa
2	Contributory Aged Parent (Residence) (Class DG) visa	Contributory Aged Parent (Temporary) (Class UU) visa
3	Business Skills (Residence) (Class DF) visa	Business Skills (Provisional) (Class UR) visa
4	Business Skills (Permanent) (Class EC) visa	Business Skills (Provisional) (Class EB) visa
5	Employer Nomination (Permanent) (Class EN) visa	Any of the following visas: (a) Subclass 457 (Temporary Work (Skilled)) visa; (b) Subclass 482 (Temporary Skill Shortage) visa

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Members of the family units of applicants for new visas		
	Column 1 **New visa applied for**	**Column 2** **Old visa person holds at time of application for new visa**
6	Regional Employer Nomination (Permanent) (Class RN) visa	Any of the following visas: (a) Subclass 457 (Temporary Work (Skilled)) visa; (b) Subclass 482 (Temporary Skill Shortage) visa
7	Skilled (Residence) (Class VB) visa	Any of the following visas: (a) Skilled—Independent Regional (Provisional) (Class UX) visa; (b) Bridging A (Class WA) visa or Bridging B (Class WB) visa 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 (iii) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; (c) Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; (d) Subclass 475 (Skilled—Regional Sponsored) visa; (e) Subclass 487 (Skilled—Regional Sponsored) visa; (f) Skilled—Regional Sponsored (Provisional) (Class SP) visa
8	Subclass 482 (Temporary Skill Shortage) visa	Any of the following visas: (a) Subclass 457 (Temporary Work (Skilled)) visa; (b) Subclass 482 (Temporary Skill Shortage) visa
9	Subclass 189 (Skilled—Independent) visa in the Hong Kong stream	Any of the following visas: (a) Subclass 457 (Temporary Work (Skilled)) visa; (b) Subclass 482 (Temporary Skill Shortage) visa; (c) Subclass 485 (Temporary Graduate) visa
10	Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Regional Provisional Visas stream	Any of the following visas: (a) Subclass 491 (Skilled Work Regional (Provisional)) visa; (b) Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

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Members of the family units of applicants for new visas		
	Column 1 **New visa applied for**	**Column 2** **Old visa person holds at time of application for new visa**
11	Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Hong Kong (Regional) stream	Any of the following visas: (a) Subclass 457 (Temporary Work (Skilled)) visa; (b) Subclass 482 (Temporary Skill Shortage) visa; (c) Subclass 485 (Temporary Graduate) visa

Student (Temporary) (Class TU) visas

(6) A person is a member of the family unit of an applicant for, or of a holder of, a Student (Temporary) (Class TU) visa if the person is:

(a) a spouse or de facto partner of the applicant or holder; or

(b) a dependent child of the applicant or holder, or of that spouse or de facto partner of the applicant or holder, who is unmarried and has not turned 18.

National Innovation (Class BX) visas

(7) A person is a member of the family unit of an applicant for a National Innovation (Class BX) visa who has not turned 18 at the time of application if:

(a) the person is:

(i) a parent of the applicant who has made a combined application with the applicant for the visa; or

(ii) under subregulation (2), a member of the family unit of a parent of the applicant who has made a combined application with the applicant for the visa; and

(b) no person is being treated under subregulation (2) as a member of the family unit of the applicant, in relation to the applicant's application for the visa; and

(c) no other parent of the applicant is being treated as a member of the family unit of the applicant in accordance with this subregulation.

1.12AA Member of the immediate family

(1) For these Regulations, a person ***A*** is a member of the immediate family of another person ***B*** if:

(a) A is a spouse or de facto partner of B; or

(b) A is a dependent child of B; or

(c) A is a parent of B, and B is not 18 years or more.

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1.13 Meaning of *nominator*

(1) The ***nominator*** of an applicant for a visa is a person who, on the relevant approved form, nominates another person as an applicant for a visa of a particular class.

(2) However, a person who proposes another person for entry to Australia as an applicant for a permanent humanitarian visa is not the ***nominator*** of the other person.

1.13A Meaning of *adverse information*

(1) ***Adverse information*** about a person is any adverse information relevant to the person's suitability as:
  (a) an approved sponsor; or
  (b) a nominator (within the meaning of regulation 5.19).

(2) Without limiting subregulation (1), ***adverse information*** about a person includes information that the person:
  (a) has contravened a law of the Commonwealth, a State or a Territory; or
  (b) is under investigation, subject to disciplinary action or subject to legal proceedings in relation to a contravention of such a law; or
  (c) has been the subject of administrative action (including being issued with a warning) for a possible contravention of such a law by a Department or regulatory authority that administers or enforces the law; or
  (d) has become insolvent (within the meaning of section 95A of the *Corporations Act 2001*); or
  (e) has given, or caused to be given, to the Minister, an officer, the ART or an assessing authority a bogus document, or information that is false or misleading in a material particular.

(3) Nothing in this regulation affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

(4) In this regulation:

information that is false or misleading in a material particular means information that is:
  (a) false or misleading at the time it is given; and
  (b) relevant to any of the matters the Minister may consider when making a decision under the Act or these Regulations, whether or not the decision is made because of that information.

Note: For the definition of ***bogus document***, see subsection 5(1) of the Act.

1.13B Meaning of *associated with*

(1) Two persons are ***associated with*** each other if:

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(a) they:
  (i) are or were spouses or de facto partners; or
  (ii) are or were members of the same immediate, blended or extended family; or
  (iii) have or had a family-like relationship; or
  (iv) belong or belonged to the same social group, unincorporated association or other body of persons; or
  (v) have or had common friends or acquaintances; or
(b) one is or was a consultant, adviser, partner, representative on retainer, officer, employer, employee or member of:
  (i) the other; or
  (ii) any corporation or other body in which the other is or was involved (including as an officer, employee or member); or
(c) a third person is or was a consultant, adviser, partner, representative on retainer, officer, employer, employee or member of both of them; or
(d) they are or were related bodies corporate (within the meaning of the *Corporations Act 2001*); or
(e) one is or was able to exercise influence or control over the other; or
(f) a third person is or was able to exercise influence or control over both of them.

(2) For the purposes of subregulation (1), it does not matter if a person has ceased to exist.

(3) This regulation does not limit the circumstances in which persons are ***associated with*** each other.

(4) In this regulation:

officer has the meaning given by section 9 of the *Corporations Act 2001*.

1.14 Orphan relative

An applicant for a visa is an orphan relative of another person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen if:

(a) the applicant:
  (i) has not turned 18; and
  (ii) does not have a spouse or de facto partner; and
  (iii) is a relative of that other person; and
(b) the applicant cannot be cared for by either parent because each of them is either dead, permanently incapacitated or of unknown whereabouts; and
(c) there is no compelling reason to believe that the grant of a visa would not be in the best interests of the applicant.

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1.14A Parent and child

(1) A reference in these Regulations to a parent includes a step-parent.

(2) For subsection 5CA(2) of the Act, if a child has been adopted under formal adoption arrangements mentioned in paragraph 1.04(1)(a) or (b) by a person or persons (the ***adoptive parent or parents***):

(a) the child is taken to be the child of the adoptive parent or parents; and

(b) the child is taken not to be the child of any other person (including a person who had been the child's parent or adoptive parent before the adoption).

Note 1: A child cannot have more than 2 parents (other than step-parents) unless the child has been adopted under arrangements mentioned in paragraph 1.04(1)(c).

Note 2: ***Parent*** is defined in subsection 5(1) of the Act, and ***child*** is defined in section 5CA of the Act.

1.15 Remaining relative

(1) An applicant for a visa is a ***remaining relative*** of another person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen if the applicant satisfies the Minister that:

(a) the other person is a parent, brother, sister, step-brother or step-sister of the applicant; and

(b) the other person is usually resident in Australia; and

(c) the applicant, and the applicant's spouse or de facto partner (if any), have no near relatives other than near relatives who are:

(i) usually resident in Australia; and

(ii) Australian citizens, Australian permanent residents or eligible New Zealand citizens; and

(d) if the applicant is a child who:

(i) has not turned 18; and

(ii) has been adopted by an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen (the ***adoptive parent***) while overseas:

at the time of making the application, the adoptive parent has been residing overseas for a period of at least 12 months.

(2) In this regulation:

near relative, in relation to an applicant, means a person who is:

(a) a parent, brother, sister, step-brother or step-sister of the applicant or of the applicant's spouse or de facto partner (if any); or

(b) a child (including a step-child) of the applicant or of the applicant's spouse or de facto partner (if any), being a child who:

(i) has turned 18 and is not a dependent child of the applicant or the applicant's spouse or de facto partner (if any); or

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(ii) has not turned 18 and is not wholly or substantially in the daily care and control of the applicant or the applicant's spouse or de facto partner (if any).

1.15AA Carer

(1) An applicant for a visa is a ***carer*** of a person who is an Australian citizen usually resident in Australia, an Australian permanent resident or an eligible New Zealand citizen (***the resident***) if:

(a) the applicant is a relative of the resident; and

(b) according to a certificate that meets the requirements of subregulation (2):

(i) a person (being the resident or a member of the family unit of the resident) has a medical condition; and

(ii) the medical condition is causing physical, intellectual or sensory impairment of the ability of that person to attend to the practical aspects of daily life; and

(iii) the impairment has, under the Impairment Tables (within the meaning of subsection 23(1) of the *Social Security Act 1991*), the rating that is specified in the certificate; and

(iv) because of the medical condition, the person has, and will continue for at least 2 years to have, a need for direct assistance in attending to the practical aspects of daily life; and

(ba) the person mentioned in subparagraph (b)(i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and

(c) the rating mentioned in subparagraph (b)(iii) is equal to, or exceeds, the impairment rating specified in a legislative instrument made by the Minister for this paragraph; and

(d) if the person to whom the certificate relates is not the resident, the resident has a permanent or long-term need for assistance in providing the direct assistance mentioned in subparagraph (b)(iv); and

(e) the assistance cannot reasonably be:

(i) provided by any other relative of the resident, being a relative who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or

(ii) obtained from welfare, hospital, nursing or community services in Australia; and

(f) the applicant is willing and able to provide to the resident substantial and continuing assistance of the kind needed under subparagraph (b)(iv) or paragraph (d), as the case requires.

(2) A certificate meets the requirements of this subregulation if:

(a) it is a certificate:

(i) in relation to a medical assessment carried out on behalf of a health service provider specified by the Minister in an instrument in writing; and

(ii) signed by the medical adviser who carried it out; or

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(b) it is a certificate issued by a health service provider specified by the Minister in an instrument in writing in relation to a review of an opinion in a certificate mentioned in paragraph (a), that was carried out by the health services provider in accordance with its procedures.

(3) The Minister is to take the opinion in a certificate that meets the requirements of subregulation (2) on a matter mentioned in paragraph (1)(b) to be correct for the purposes of deciding whether an applicant satisfies a criterion that the applicant is a carer.

1.15A Spouse

(1) For subsection 5F(3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F(2)(a), (b), (c) and (d) of the Act exist.

(2) If the Minister is considering an application for:
(a) a Partner (Migrant) (Class BC) visa; or
(b) a Partner (Provisional) (Class UF) visa; or
(c) a Partner (Residence) (Class BS) visa; or
(d) a Partner (Temporary) (Class UK) visa;
the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).

(3) The matters for subregulation (2) are:
(a) the financial aspects of the relationship, including:
(i) any joint ownership of real estate or other major assets; and
(ii) any joint liabilities; and
(iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
(iv) whether one person in the relationship owes any legal obligation in respect of the other; and
(v) the basis of any sharing of day-to-day household expenses; and
(b) the nature of the household, including:
(i) any joint responsibility for the care and support of children; and
(ii) the living arrangements of the persons; and
(iii) any sharing of the responsibility for housework; and
(c) the social aspects of the relationship, including:
(i) whether the persons represent themselves to other people as being married to each other; and
(ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
(iii) any basis on which the persons plan and undertake joint social activities; and
(d) the nature of the persons' commitment to each other, including:
(i) the duration of the relationship; and

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(ii) the length of time during which the persons have lived together; and
(iii) the degree of companionship and emotional support that the persons draw from each other; and
(iv) whether the persons see the relationship as a long-term one.

(4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).

1.15B Vocational English

(1) A person has ***vocational English*** if:
(a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and
(b) the person is an applicant for a visa; and
(ba) for a person who was invited by the Minister under these Regulations, in writing, to apply for the visa—the test was conducted in the 3 years immediately before the date of the invitation; and
(bb) for a person to whom paragraph (ba) does not apply—the test was conducted in the 3 years immediately before the day on which the application was made; and
(c) the person achieved a score specified in the instrument.

(2) A person also has ***vocational English*** if the person holds a passport of a type specified by the Minister in an instrument in writing for this subregulation.

1.15C Competent English

(1) A person has ***competent English*** if:
(a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and
(b) the person is an applicant for a visa; and
(ba) for a person who was invited (or whose spouse or de facto partner was invited) by the Minister under these Regulations, in writing, to apply for the visa—the test was conducted in the 3 years immediately before the date of the invitation; and
(bb) for a person to whom paragraph (ba) does not apply—the test was conducted in the 3 years immediately before the day on which the application was made; and
(c) the person achieved a score specified in the instrument.

(2) A person also has ***competent English*** if the person holds a passport of a type specified by the Minister in an instrument in writing for this subregulation.

1.15D Proficient English

A person has ***proficient English*** if:

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(a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and

(aa) the person is an applicant for a visa; and

(b) the test was conducted in the 3 years immediately before the day on which the Minister invited the person under these Regulations, in writing, to apply for the visa; and

(c) the person achieved a score specified in the instrument.

1.15EA Superior English

A person has ***superior English*** if:

(a) the person undertook a language test, specified by the Minister in an instrument in writing for this paragraph; and

(aa) the person is an applicant for a visa; and

(b) the test was conducted in the 3 years immediately before the day on which the Minister invited the person under these Regulations, in writing, to apply for the visa; and

(c) the person achieved a score specified in the instrument.

1.15F Australian study requirement

(1) A person satisfies the ***Australian study requirement*** if the person satisfies the Minister that the person has completed 1 or more degrees, diplomas or trade qualifications for award by an Australian educational institution as a result of a course or courses:

(a) that are registered courses; and

(b) that were completed in a total of at least 16 calendar months; and

(c) that were completed as a result of a total of at least 2 academic years study; and

(d) for which all instruction was conducted in English; and

(e) that the applicant undertook while in Australia as the holder of a visa authorising the applicant to study.

Note: ***Academic year*** is defined in regulation 1.03.

(2) In this regulation:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note: The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for subregulation (2), before the award is formally conferred.

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

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

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

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1.15FAA Specified Subclass 417 work

The Minister may, by legislative instrument, specify areas of Australia and kinds of work for the purposes of the definition of ***specified Subclass 417 work*** in regulation 1.03.

1.15FA Specified Subclass 462 work

The Minister may, by legislative instrument, specify areas of Australia and kinds of work for the purposes of the definition of ***specified Subclass 462 work*** in regulation 1.03.

1.15FB Work carried out for an excluded employer

(1) Work was ***carried out for an excluded employer*** if it was done:
  (a) for, or for the benefit of, a person, partnership or unincorporated association that was, at the time the work was done, specified in an instrument made under subregulation (2); and
  (b) as an employee or contractor of:
    (i) the person, partnership or unincorporated association; or
    (ii) a contractor or subcontractor of the person, partnership or unincorporated association.

(2) The Minister may, by legislative instrument, specify a person, partnership or unincorporated association (the ***employer***) if the Minister is satisfied that:
  (a) the employer may pose a risk to the safety or welfare of a person performing work in the employment, or under the supervision, of the employer; or
  (b) the performance of work in the employment, or under the supervision, of the employer may pose a risk to the safety or welfare of a person.

(2A) Before specifying a person, partnership or unincorporated association under subregulation (2), the Minister must:
  (a) give written notice to the person, partnership or unincorporated association stating that the Minister proposes to specify the person, partnership or unincorporated association and the reasons for doing so; and
  (b) allow the person, partnership or unincorporated association at least 28 days to make a written submission to the Minister about the proposed specification.

(3) Without limiting subregulation (2), the Minister may specify a person, partnership or unincorporated association using any or all of the following information:
  (a) the name of the person, partnership or unincorporated association;
  (b) the ABN (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*) of the person, partnership or unincorporated association;

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(c) any other information that identifies the person, partnership or unincorporated association.

(4) If the Minister, by legislative instrument, specifies a person, partnership or unincorporated association under subregulation (2), the Minister must, as soon as reasonably practicable, give the person, partnership or unincorporated association a copy of the instrument.

Note: This regulation constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws (including the common law).

1.15G Superyachts

The Minister may, by instrument in writing, specify that:

(a) a sailing ship of a particular kind is a superyacht for the purposes of these Regulations; or

(b) a motor vessel of a particular kind is a superyacht for the purposes of these Regulations.

1.15I Skilled occupation

(1) A ***skilled occupation***, in relation to a person, means an occupation of a kind:

(a) that is specified by the Minister in an instrument in writing to be a skilled occupation; and

(b) if a number of points are specified in the instrument as being available—for which the number of points are available; and

(c) that is applicable to the person in accordance with the specification of the occupation.

(2) Without limiting subregulation (1), the Minister may specify in the instrument any matter in relation to an occupation, or to a class of persons to which the instrument relates, including:

(a) that an occupation is a skilled occupation for a class of persons;

(b) that an occupation is a skilled occupation for a person who is nominated by a State or Territory government agency.

1.15J Excluded maritime arrival

For paragraph 5AA(3)(c) of the Act, the following classes of persons are prescribed:

(a) persons who:

(i) enter Australia on or after the day this regulation commences; and

(ii) hold and produce an ETA-eligible passport;

(b) persons who:

(i) enter Australia on or after the day this regulation commences; and

(ii) at the time of entry into Australia, are accompanied by another person who holds and produces an ETA-eligible passport; and

(iii) are included in that ETA-eligible passport.

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Note 1: A person who is in one of these classes is an excluded maritime arrival and is not an unauthorised maritime arrival: see section 5AA of the Act.

Note 2: Subregulation 1.11B(3) sets out which passports are ETA-eligible passports for the purposes of this regulation.

1.15K When a person has an outstanding public health debt

A person ***has an outstanding public health debt*** if:

(a) the person incurs an expense of either or both of the following kinds:

(i) a medical, hospital or other health-related expense arising from the treatment, on or after 17 April 2019, of the person in a public hospital or other public health facility;

(ii) an expense arising from the provision of an aged care service to the person, on or after 17 April 2019, by an approved provider of a kind mentioned in section 8-6 of the *Aged Care Act 1997*; and

(b) a State, Territory or local government authority notifies Immigration, in accordance with an agreement between the authority and Immigration, that the expense (in whole or in part) is an unpaid debt owed by the person to the authority; and

(c) the notification has not been withdrawn by the authority.

1.15L Adequate arrangements for health insurance

(1) The Minister may, by legislative instrument, specify the following for the purposes of paragraph (a) of the definition of ***adequate arrangements for health insurance*** in regulation 1.03:

(a) requirements for health insurance for a specified class or classes of visa;

(b) requirements for health insurance for a specified class or classes of person.

(2) Without limiting subregulation (1), the Minister may specify different requirements for different classes of visa or person.

Note: This subregulation does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

1.15M Designated regional areas

(1) The Minister may, by legislative instrument, specify a part of Australia to be a ***designated city or major regional centre***.

(2) The Minister may, by legislative instrument, specify a part of Australia to be a ***regional centre or other regional area***.

1.15N Concession periods

Initial concession period

(1) The ***concession period*** is the period (the ***initial concession period***) that:

(a) commences on 1 February 2020; and

(b) ends on a day specified by the Minister under subregulation (2).

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(2) The Minister may, by legislative instrument, specify a day for the purposes of paragraph (1)(b).

Later concession periods for the purposes of specified provisions

(3) The Minister may, by legislative instrument, determine a period as a ***concession period*** for the purposes of a specified provision of these Regulations in which the expression "concession period" is used.

(4) The period must not begin before the initial concession period ends.

1.15P COVID-19 affected visas

Offshore COVID-19 affected visas

(1) A Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa (the ***covered visa***) is covered by this subregulation if:
  (a) the covered visa is granted to a person before 20 March 2020; and
  (b) the covered visa is in effect on 20 March 2020; and
  (c) between 1 July 2021 and 31 December 2022, the person applies for a Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa; and
  (d) the person is outside Australia when the application is made; and
  (e) if the covered visa is in effect when the application is made—the covered visa did not, when granted, permit the person to travel to, enter or remain in Australia after 31 December 2021; and
  (f) if the covered visa is not in effect when the application is made:
    (i) the covered visa ceased to be in effect on or before 31 December 2021; and
    (ii) the person was outside Australia when the covered visa ceased to be in effect; and
    (iii) if the covered visa was cancelled—it was cancelled on the ground specified in paragraph 2.43(1)(g).

(2) The Minister may, by legislative instrument, specify kinds of Subclass 417 (Working Holiday) visas and Subclass 462 (Work and Holiday) visas for the purposes of the definition of ***offshore COVID-19 affected visa*** in regulation 1.03.

Onshore COVID-19 affected visas

(2A) A Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa (the ***covered visa***) is covered by this subregulation if:
  (a) the covered visa is granted to a person before 20 March 2020; and
  (b) on 20 March 2020, either:
    (i) the covered visa is in effect; or
    (ii) the person does not hold a substantive visa and the covered visa is the last substantive visa held by the person; and

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(c) the person is in Australia on 20 March 2020; and
(d) between 5 March 2022 and 31 December 2022, the person applies for a Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa; and
(e) the person is in Australia when the application is made; and
(f) if the covered visa is cancelled before the application is made—it was cancelled on the ground specified in paragraph 2.43(1)(g).

(2B) The Minister may, by legislative instrument, specify kinds of Subclass 417 (Working Holiday) visas and Subclass 462 (Work and Holiday) visas for the purposes of the definition of ***onshore COVID-19 affected visa*** in regulation 1.03.

Instruments under this regulation

(3) Without limiting subregulation (2) or (2B), legislative instruments under those subregulations may specify a kind of Subclass 417 (Working Holiday) visa or Subclass 462 (Work and Holiday) visa by reference to circumstances relating to a person who holds or held the visa.

1.15Q Unwanted transfer of critical technology

(1) An ***unwanted transfer of critical technology*** by a person is any direct or indirect:
(a) transfer of critical technology; or
(b) communication of information about critical technology;
by the person that would:
(c) harm or prejudice the security or defence of Australia, including the operations, capabilities or technologies of, or methods or sources used by, domestic intelligence agencies (within the meaning of Part 5.6 of the *Criminal Code*) or foreign intelligence agencies (within the meaning of the *Criminal Code*); or
(d) harm or prejudice the health and safety of the Australian public or a section of the Australian public; or
(e) interfere with or prejudice the prevention, detection, investigation, prosecution or punishment of a criminal offence against a law of the Commonwealth; or
(f) harm or prejudice Australia's international relations:
(i) in relation to information that was communicated in confidence by, or on behalf of, the government of a foreign country, an authority of the government of a foreign country or an international organisation; or
(ii) by enabling critical technology to be used in a way that is contrary to Australia's international obligations or commitments; or
(iii) by leading to a reaction by a foreign country that damages Australia's interests or relations with the foreign country or with a particular region.

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(2) The Minister may, by legislative instrument, specify kinds of technology for the purposes of the definition of ***critical technology*** in regulation 1.03.

1.15R Certifying entity and workplace exploitation matter

(1) The Minister may, by legislative instrument, determine that a person, body or government entity is a ***certifying entity*** for the purposes of regulations 2.43A and 2.43B.

(2) The Minister may, by legislative instrument, determine that a matter is a ***workplace exploitation matter*** for the purposes of regulations 2.43A and 2.43B.

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Division 1.3—Administration

1.16 Delegation

(1) The Minister may, by writing signed by the Minister, delegate to an officer any of the Minister's powers under these Regulations, other than this power of delegation.

(2) The Secretary may, by writing signed by the Secretary, delegate to an officer any of the Secretary's powers under these Regulations, other than this power of delegation.

1.16AA Appointment of Medical Officer of the Commonwealth

The Minister may, by writing signed by the Minister, appoint a medical practitioner to be a Medical Officer of the Commonwealth for the purposes of these Regulations.

1.17 Professional bodies that may nominate persons for appointment to the Independent Health Advice Panel

For the purposes of subparagraph 199B(3)(b)(v) of the Act, the following bodies are prescribed:

(a) the Royal Australian College of General Practitioners Limited (ACN 000 223 807);
(b) the Australian College of Rural and Remote Medicine (ACN 078 081 848);
(c) the Royal Australasian College of Surgeons (ACN 004 167 766).

1.18 Approved forms

(1) The Minister may, in writing, approve forms for:
  (a) use in making an application for a visa; or
  (b) any other purpose authorised or required by these Regulations.

(2) Each of the following is an approved form for use in making an application for a visa:
  (a) a paper form;
  (b) a set of questions in an interactive computer program that is:
    (i) approved by the Minister for use in making an application for the visa; and
    (ii) made available at an Internet site operated under the authority of the Minister;
  (c) a set of questions in a form that:
    (i) is stored in an electronic format; and
    (ii) is approved by the Minister for use in making an application for the visa.

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Division 1.4—Sponsorship not applicable to Division 3A of Part 2 of the Act

1.20 Sponsorship undertakings

(1) The ***sponsor*** of an applicant for a visa is a person (except a person who proposes on the relevant approved form another person for entry to Australia as an applicant for a permanent humanitarian visa) who undertakes the obligations stated in subregulation (2) in relation to the applicant.

(2) Subject to subregulation (4), the obligations of a sponsor in relation to an applicant for a visa are the following:

(a) if the application is for a Skilled—Regional Sponsored (Provisional) (Class SP) visa, a Skilled Work Regional (Provisional) (Class PS) visa or a permanent visa (other than a Partner (Migrant) (Class BC) or Partner (Residence) (Class BS) visa)—the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:

(i) if the applicant is in Australia—during the period of 2 years immediately following the grant of that visa; or

(ii) if the applicant is outside Australia—during the period of 2 years immediately following the applicant's first entry into Australia under that visa;

including any period of participation by the applicant in the program known as the Adult Migrant English Program administered by Immigration that falls within that period;

(b) if the application is for a temporary visa (other than a Resolution of Status (Temporary) (Class UH), Partner (Provisional) (Class UF), Partner (Temporary) (Class UK) or Extended Eligibility (Temporary) (Class TK) visa)—the sponsor undertakes to accept responsibility for:

(i) all financial obligations to the Commonwealth incurred by the applicant arising out of the applicant's stay in Australia; and

(ii) compliance by the applicant with all relevant legislation and awards in relation to any employment entered into by the applicant in Australia; and

(iii) unless the Minister otherwise decides, compliance by the applicant with the conditions under which the applicant was allowed to enter Australia;

(c) if the application is a concurrent application for a Partner (Provisional) (Class UF) and a Partner (Migrant) (Class BC) visa or a Partner (Temporary) (Class UK) and a Partner (Residence) (Class BS) visa, the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:

(i) if the applicant is in Australia—during the period of 2 years immediately following the grant of the provisional or temporary visa; or

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(ii) if the applicant is outside Australia—during the period of 2 years immediately following the applicant's first entry into Australia after the grant of the provisional or temporary visa;

(d) if the application is for a Resolution of Status (Temporary) (Class UH) visa made by an applicant who is outside Australia—the sponsor undertakes to assist the applicant, to the extent necessary, financially and in respect of accommodation, during the period of 2 years immediately following the applicant's entry into Australia as the holder of the visa;

(e) if the application is for an Extended Eligibility (Temporary) (Class TK) visa, the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:

(i) if the applicant is in Australia—for the 2 years immediately after the visa is granted; or

(ii) if the applicant is outside Australia—for the 2 years immediately after the applicant's first entry into Australia after the visa is granted.

(3) A person (other than a person who is a sponsor of an applicant for a visa mentioned in subregulation (3A), a Skilled—Regional Sponsored (Provisional) (Class SP) visa or a Skilled Work Regional (Provisional) (Class PS) visa) who has been approved by the Minister as the sponsor of an applicant for a visa must enter into the sponsorship by completing the relevant approved form and give it to the Minister not later than a reasonable period after the Minister approves the person as a sponsor.

(3A) A person who is a sponsor of an applicant for:

(a) a Skilled (Migrant) (Class VE) visa; or

(b) a Skilled (Residence) (Class VB) visa; or

(c) a Skilled (Provisional) (Class VF) visa; or

(d) a Skilled (Provisional) (Class VC) visa;

must complete the relevant approved form and give it to the Minister prior to the Minister approving the person as a sponsor.

(4) This regulation does not apply to a visa in the following classes or subclasses:

(b) Business Skills—Business Talent (Migrant) (Class EA);

(c) Business Skills—Established Business (Residence) (Class BH);

(e) Business Skills (Residence) (Class DF);

(f) Business Skills (Provisional) (Class UR);

(fb) Superyacht Crew (Temporary) (Class UW);

(ga) Special Program (Temporary) (Class TE);

(gb) Subclass 401 (Temporary Work (Long Stay Activity));

(gc) Subclass 402 (Training and Research);

(gca) Subclass 407 (Training);

(gcb) Subclass 408 (Temporary Activity);

(gd) Subclass 420 (Temporary Work (Entertainment));

(h) Subclass 457 (Temporary Work (Skilled));

(i) Subclass 482 (Temporary Skill Shortage);

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(ia) Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
(j) Subclass 870 (Sponsored Parent (Temporary)).

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Division 1.4B—Limitation on certain sponsorships under Division 1.4

1.20J Limitation on approval of sponsorships—spouse, partner, prospective marriage and interdependency visas

(1AA) This regulation applies in relation to an application for:

(b) a Partner (Provisional) (Class UF) visa; or

(c) a Prospective Marriage (Temporary) (Class TO) visa; or

(e) an Extended Eligibility (Temporary) (Class TK) visa; or

(f) a Partner (Temporary) (Class UK) visa.

(1) Subject to subregulations (2) and (3), if a person applies for a visa mentioned in subregulation (1AA) as the spouse, de facto partner or prospective spouse of the sponsor, the Minister must not approve the sponsorship of the applicant unless the Minister is satisfied that:

(a) not more than 1 other person has been granted a relevant permission as:

(i) the spouse, de facto partner or prospective spouse of the sponsor on the basis of a sponsorship or nomination; or

(ii) a person who ceased a relationship of a kind mentioned in subparagraph (i) with the sponsor after the person, or another person mentioned in the prescribed criteria for the visa, had experienced family violence committed by the sponsor; and

(b) if another person has been granted a relevant permission in the circumstances referred to in paragraph (a)—not less than 5 years has passed since the date of making the application for that relevant permission; and

(c) if the sponsor was granted a relevant permission as the spouse, de facto partner or prospective spouse of another person on the basis of a sponsorship or nomination—not less than 5 years has passed since the date of making the application for that relevant permission.

(1A) In subregulation (1):

relevant permission means:

(a) in relation to an application for a visa referred to in subregulation (1AA) made during the period from 1 November 1996 to 30 June 1997 (inclusive)—a visa; and

(b) in relation to an application for a visa referred to in subregulation (1AA) made on or after 1 July 1997—permission (other than a visa or entry permit) granted under the Act to remain indefinitely in Australia, a visa or an entry permit.

(2) Despite subregulation (1), the Minister may approve the sponsorship of an applicant for a visa if the Minister is satisfied that there are compelling circumstances affecting the sponsor.

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1.20K Limitation on sponsorships—remaining relative visas

(1) The Minister must not grant a Subclass 115 (Remaining Relative) visa or a Subclass 835 (Remaining Relative) visa to an applicant if the applicant is sponsored for the visa by a person:
  (a) who is an Australian relative for the applicant; and
  (b) to whom the Minister has granted any of the following:
    (i) a Subclass 104 visa;
    (ii) a Subclass 115 (Remaining Relative) visa;
    (iii) a Subclass 806 visa;
    (iv) a Subclass 835 (Remaining Relative) visa.

(2) The Minister must not grant a Subclass 115 (Remaining Relative) visa or a Subclass 835 (Remaining Relative) visa to an applicant if the applicant is sponsored for the visa by a person:
  (a) who is an Australian relative for the applicant; and
  (b) who has sponsored another applicant for any of the following:
    (i) a Subclass 104 visa;
    (ii) a Subclass 115 (Remaining Relative) visa;
    (iii) a Subclass 806 visa;
    (iv) a Subclass 835 (Remaining Relative) visa; and
  (c) the Minister granted the visa to the other applicant.

(3) The Minister must not grant a Subclass 115 (Remaining Relative) visa or a Subclass 835 (Remaining Relative) visa to an applicant if:
  (a) the applicant is sponsored for the visa by a person who is the spouse or de facto partner of an Australian relative for the applicant; and
  (b) the Australian relative for the applicant is a person to whom the Minister has granted any of the following:
    (i) a Subclass 104 visa;
    (ii) a Subclass 115 (Remaining Relative) visa;
    (iii) a Subclass 806 visa;
    (iv) a Subclass 835 (Remaining Relative) visa.

(4) The Minister must not grant a Subclass 115 (Remaining Relative) visa or a Subclass 835 (Remaining Relative) visa to an applicant if:
  (a) the applicant is sponsored for the visa by a person who is the spouse or de facto partner of an Australian relative for the applicant; and
  (b) the Australian relative for the applicant has sponsored another applicant for any of the following:
    (i) a Subclass 104 visa;
    (ii) a Subclass 115 (Remaining Relative) visa;
    (iii) a Subclass 806 visa;
    (iv) a Subclass 835 (Remaining Relative) visa; and
  (c) the Minister granted the visa to the other applicant.

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(5) The Minister must not grant a Subclass 115 (Remaining Relative) visa or a Subclass 835 (Remaining Relative) visa to an applicant if:
  (a) the applicant is sponsored for the visa by the spouse or de facto partner of an Australian relative for the applicant; and
  (b) the spouse or de facto partner has sponsored another applicant who is a relative of the Australian relative for the applicant for any of the following:
    (i) a Subclass 104 visa;
    (ii) a Subclass 115 (Remaining Relative) visa;
    (iii) a Subclass 806 visa;
    (iv) a Subclass 835 (Remaining Relative) visa; and
  (c) the Minister granted the visa to the other applicant.

(6) In this regulation:

Subclass 104 visa means a Subclass 104 (Preferential Family) visa that could have been granted by the Minister under these Regulations, as in force immediately before 1 November 1999.

Subclass 806 visa means a Subclass 806 (Family) visa that could have been granted by the Minister under these Regulations, as in force immediately before 1 November 1999.

1.20KA Limitation on approval of sponsorship—partner (provisional or temporary) or prospective marriage (temporary) visas

(1) This regulation applies if:
  (a) a person is granted a specified visa on or after 1 July 2009; and
  (b) the person seeks approval to sponsor the relevant applicant on or after 1 July 2009; and
  (c) the person was the spouse or de facto partner of the relevant applicant on or before the day the specified visa was granted to the person.

(2) The Minister must not approve sponsorship by the person of the relevant applicant within 5 years after the day when the person was granted the specified visa.

(3) Despite subregulation (2), the Minister may approve sponsorship by the person of the relevant applicant:
  (a) if the relevant applicant had compelling reasons, other than reasons related to his or her financial circumstances, for not applying for a specified visa at the same time as the person applied for his or her specified visa; or
  (b) if:
    (i) the relevant applicant applied for a specified visa at the same time as the sponsor; and
    (ii) the relevant applicant withdrew the application for the specified visa before it was granted; and

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(iii) the relevant applicant had compelling reasons, other than reasons related to his or her financial circumstances, for withdrawing the application for the specified visa.

(4) In this regulation:

relevant applicant means the applicant for:

(a) a Partner (Provisional) (Class UF) visa; or

(b) a Partner (Temporary) (Class UK) visa; or

(c) a Prospective Marriage (Temporary) (Class TO) visa.

specified visa means:

(a) a Subclass 143 (Contributory Parent) visa; or

(b) a Subclass 864 (Contributory Aged Parent) visa.

1.20KB Limitation on approval of sponsorship—child, partner and prospective marriage visas

(1) This regulation applies in relation to:

(a) an application for any of the following visas:

(i) a Child (Migrant) (Class AH) visa;

(ii) a Child (Residence) (Class BT) visa;

(iii) an Extended Eligibility (Temporary) (Class TK) visa;

(iv) a Partner (Temporary) (Class UK) visa;

(v) a Prospective Marriage (Temporary) (Class TO) visa;

(vi) a Partner (Provisional) (Class UF) visa;

if the primary applicant or secondary applicant is under 18 at the time of the application; and

(b) an application for the approval of a sponsorship in relation to that application for a visa.

Sponsor charged with registrable offence

(2) If the sponsor has been charged with a registrable offence, the Minister must refuse to approve the sponsorship of all of the applicants for the visa unless:

(a) none of the applicants is under 18 at the time of the decision on the application for approval of the sponsorship; or

(b) the charge has been withdrawn, dismissed or otherwise disposed of without the recording of a conviction.

Sponsor convicted of registrable offence

(3) Subject to subregulations (4) and (5), if the sponsor has been convicted of a registrable offence, the Minister must refuse to approve the sponsorship of all of the applicants for the visa unless:

(a) none of the applicants is under 18 at the time of the decision on the application for approval of the sponsorship; or

(b) the conviction has been quashed or otherwise set aside.

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(4) Despite subregulation (3), the Minister may decide to approve the sponsorship if:
  (a) the sponsor completed the sentence imposed for the registrable offence (including any period of release under recognisance, parole, or licence) more than 5 years before the date of the application for approval of the sponsorship; and
  (b) the sponsor has not been charged with a registrable offence since the sponsor completed that sentence; and
  (c) there are compelling circumstances affecting the sponsor or the applicant.

(5) Despite subregulation (3), the Minister may decide to approve the sponsorship if:
  (a) the sponsor completed the sentence imposed for the registrable offence (including any period of release under recognisance, parole, or licence) more than 5 years before the date of the application for approval of the sponsorship; and
  (b) if the sponsor has been charged with a registrable offence since the sponsor completed that sentence—the charge has been withdrawn, dismissed or otherwise disposed of without the recording of a conviction; and
  (c) there are compelling circumstances affecting the sponsor or the applicant.

(6) Subregulations (7) to (10) do not apply in relation to an application for any of the following visas:
  (a) a Partner (Temporary) (Class UK) visa;
  (b) a Prospective Marriage (Temporary) (Class TO) visa;
  (c) a Partner (Provisional) (Class UF) visa.

Spouse or de facto partner charged with registrable offence

(7) If the spouse or de facto partner of the sponsor has been charged with a registrable offence, the Minister must refuse to approve the sponsorship of all of the applicants for the visa unless:
  (a) none of the applicants is under 18 at the time of the decision on the application for approval of the sponsorship; or
  (b) the charge has been withdrawn, dismissed or otherwise disposed of without the recording of a conviction.

Spouse or de facto partner convicted of registrable offence

(8) Subject to subregulations (9) and (10), if the spouse or de facto partner of the sponsor has been convicted of a registrable offence, the Minister must refuse to approve the sponsorship of all of the applicants for the visa unless:
  (a) none of the applicants is under 18 at the time of the decision on the application for approval of the sponsorship; or
  (b) the conviction has been quashed or otherwise set aside.

(9) Despite subregulation (8), the Minister may decide to approve the sponsorship if:
  (a) the spouse or de facto partner completed the sentence imposed for the registrable offence (including any period of release under recognisance,

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parole, or licence) more than 5 years before the date of the application for approval of the sponsorship; and

(b) the spouse or de facto partner has not been charged with a registrable offence since the sponsor completed that sentence; and

(c) there are compelling circumstances affecting the sponsor or the applicant.

(10) Despite subregulation (8), the Minister may decide to approve the sponsorship if:

(a) the spouse or de facto partner completed the sentence imposed for the registrable offence (including any period of release under recognisance, parole, or licence) more than 5 years before the date of the application for approval of the sponsorship; and

(b) if the spouse or de facto partner has been charged with a registrable offence since the spouse or de facto partner completed that sentence—the charge has been withdrawn, dismissed or otherwise disposed of without the recording of a conviction; and

(c) there are compelling circumstances affecting the sponsor or the applicant.

Evidence of charge or conviction

(11) To determine whether a sponsor, or the spouse or de facto partner of a sponsor, has been charged with, or convicted of, a registrable offence, the Minister may request the sponsor, or the spouse or de facto partner of the sponsor, to provide a police check from:

(a) a jurisdiction in Australia specified in the request; or

(b) a country, specified in the request, in which the sponsor or the spouse or de facto partner has lived for a period, or a total period, of at least 12 months.

(12) In addition to other reasons set out in this regulation for refusing to approve a sponsorship, the Minister may refuse to approve the sponsorship of all applicants for a visa if:

(a) the Minister has requested a police check for the sponsor or the sponsor's spouse or de facto partner; and

(b) the sponsor or the sponsor's spouse or de facto partner does not provide the police check within a reasonable time.

(13) In this regulation:

primary applicant, for a visa, means the applicant seeking to satisfy the primary criteria for the visa.

registrable offence means any of the following:

(a) an offence that is a registrable offence within the meaning of any of the following Acts:

(i) the *Child Protection (Offenders Registration) Act 2000* (NSW);

(ii) the **Sex Offenders Registration Act 2004** (Vic);

(iii) the *Child Sex Offenders Registration Act 2006* (SA);

(iv) the *Crimes (Child Sex Offenders) Act 2005* (ACT);

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(b) an offence that would be a registrable offence under paragraph (a) if it were committed in a jurisdiction mentioned in that paragraph;
(c) an offence that is a reportable offence within the meaning of any of the following Acts:
(i) the *Child Protection (Offender Reporting) Act 2004* (Qld);
(ii) the *Community Protection (Offender Reporting) Act 2004* (WA);
(iii) the *Community Protection (Offender Reporting) Act 2005* (Tas);
(iv) the *Child Protection (Offender Reporting and Registration) Act 2004* (NT);
(d) an offence that would be a reportable offence under paragraph (c) if it were committed in a jurisdiction mentioned in that paragraph.

secondary applicant, for a visa, means an applicant seeking to satisfy the secondary criteria for the visa in relation to the primary applicant.

1.20KC Limitation on approval of sponsorship—prospective marriage and partner visas

Applications for which visas?

(1) This regulation applies in relation to the approval of a sponsorship for one or more applications for any of the following visas:
(a) a Prospective Marriage (Temporary) (Class TO) visa;
(b) a Partner (Provisional) (Class UF) visa;
(c) a Partner (Temporary) (Class UK) visa.

Relevant offences

(2) This regulation applies in relation to an offence (a ***relevant offence***) against a law of the Commonwealth, a State, a Territory or a foreign country, involving any of the following matters:
(a) violence against a person, including (without limitation) murder, assault, sexual assault and the threat of violence;
(b) the harassment, molestation, intimidation or stalking of a person;
(c) the breach of an apprehended violence order, or a similar order, issued under a law of a State, a Territory or a foreign country;
(d) firearms or other dangerous weapons;
(e) people smuggling;
(f) human trafficking, slavery or slavery-like practices (including forced marriage), kidnapping or unlawful confinement;
(g) attempting to commit an offence involving any of the matters mentioned in paragraphs (a) to (f), or paragraph (h);
(h) aiding, abetting, counselling or procuring the commission of an offence involving any of the matters mentioned in paragraphs (a) to (g).

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Sponsor has significant criminal record in relation to relevant offence

(3) The Minister must refuse to approve the sponsorship of each applicant for the visa if:
  (a) the sponsor has been convicted of a relevant offence or relevant offences; and
  (b) the sponsor has a significant criminal record in relation to the relevant offence or relevant offences (see regulation 1.20KD).

(4) Despite subregulation (3), the Minister may decide to approve the sponsorship if the Minister considers it reasonable to do so, having regard to matters including the following (without limitation):
  (a) the length of time since the sponsor completed the sentence (or sentences) for the relevant offence or relevant offences;
  (b) the best interests of the following:
    (i) any children of the sponsor;
    (ii) any children of the applicant who is seeking to satisfy the primary criteria for the grant of the visa concerned;
  (c) the length of the relationship between the sponsor and the applicant who is seeking to satisfy the primary criteria for the grant of the visa concerned.

Police check

(5) To determine whether a sponsor has been convicted of a relevant offence, and whether the sponsor has a significant criminal record in relation to a relevant offence, the Minister may, on one or more occasions, request the sponsor to provide a police check relating to the sponsor from any, or all, of the following:
  (a) a jurisdiction in Australia specified in the request;
  (b) a foreign country, specified in the request, in which the sponsor has lived for a period, or a total period, of at least 12 months since the latest of the following dates:
    (i) 10 years before the date of the request;
    (ii) the date the sponsor turned 16.

(6) In addition to subregulation (3), the Minister may refuse to approve the sponsorship of each applicant for the visa if:
  (a) the Minister has requested a police check from the sponsor under subregulation (5); and
  (b) the sponsor does not provide the police check within a reasonable time.

1.20KD Prospective marriage and partner visas—definition of *significant criminal record*

(1) For the purposes of regulation 1.20KC, a sponsor has a ***significant criminal record*** in relation to a relevant offence or relevant offences if, for that offence or those offences:
  (a) the sponsor has been sentenced to death; or
  (b) the sponsor has been sentenced to imprisonment for life; or

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(c) the sponsor has been sentenced to a term of imprisonment of 12 months or more; or

(d) the sponsor has been sentenced to 2 or more terms of imprisonment, where the total of those terms is 12 months or more.

Concurrent sentences

(2) For the purposes of subregulation (1), if a sponsor has been sentenced to 2 or more terms of imprisonment to be served concurrently (whether in whole or in part), the whole of each term is to be counted in working out the total of the terms.

Example: A sponsor is sentenced to 2 terms of 3 months imprisonment for 2 offences, to be served concurrently. For the purposes of subregulation (1), the total of those terms is 6 months.

Periodic detention

(3) For the purposes of subregulation (1), if a sponsor has been sentenced to periodic detention, the sponsor's term of imprisonment is taken to be equal to the number of days the sponsor is required under that sentence to spend in detention.

Residential schemes or programs

(4) For the purposes of subregulation (1), if a sponsor has been convicted of a relevant offence, and the court orders the sponsor to participate in:

(a) a residential drug rehabilitation scheme; or

(b) a residential program for the mentally ill;

the sponsor is taken to have been sentenced to a term of imprisonment equal to the number of days the sponsor is required to participate in the scheme or program.

Pardons etc.

(5) For the purposes of subregulation (1), a sentence imposed on a sponsor for a relevant offence, or the conviction of a sponsor for a relevant offence, is to be disregarded if:

(a) the conviction concerned has been quashed or otherwise nullified; or

(b) both:

(i) the sponsor has been pardoned in relation to the conviction concerned; and

(ii) the effect of that pardon is that the sponsor is taken never to have been convicted of the offence.

1.20L Limitation on approval of sponsorship—Subclass 600 (Visitor) visas

(1) The Minister must not approve the sponsorship by a sponsor of an applicant for a Subclass 600 (Visitor) visa if:

(a) the sponsor has previously sponsored the applicant, or another applicant, for:

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(i) a Subclass 600 (Visitor) visa; or
(ii) a Sponsored (Visitor) (Class UL) visa; and

(b) the visa mentioned in paragraph (a) was granted; and

(c) either:
(i) subject to subregulation (3)—the visa is still in effect; or
(ii) subject to subregulation (4)—each of the following applies:
(A) the visa has ceased to be in effect;
(B) the previous applicant did not comply with a condition of the visa;
(C) a period of 5 years has not passed since the grant of the visa.

(3) Despite subparagraph (1)(c)(i), the Minister may approve the sponsorship by the sponsor of the applicant if:
(a) the previous applicant holds a Subclass 600 (Visitor) visa; and
(b) the Minister is satisfied that the applicant:
(i) is a member of the family unit of the previous applicant; and
(ii) is proposing to travel to Australia for the same purpose as the previous applicant.

(4) Despite subparagraph (1)(c)(ii), the Minister may approve the sponsorship by the sponsor of the applicant if:
(a) the previous applicant was the holder of a Subclass 600 (Visitor) visa; and
(b) the Minister has, at any time, determined in writing that he or she is satisfied that:
(i) the previous applicant did not comply with condition 8531; and
(ii) the previous applicant exceeded the period of stay permitted by the visa due to circumstances:
(A) beyond the previous applicant's control; and
(B) that occurred after the previous applicant entered Australia as the holder of a visa mentioned in paragraph (a).

Note: Condition 8531 provides that the holder of a visa is not permitted to remain in Australia after the end of the period of stay permitted by that visa.

1.20LAA Limitation on sponsorships—parent, aged dependent relative, contributory parent, aged parent and contributory aged parent visas

(1) This regulation applies to the following visas:
(a) a Subclass 103 (Parent) visa;
(b) a Subclass 114 (Aged Dependent Relative) visa;
(c) a Subclass 143 (Contributory Parent) visa;
(d) a Subclass 173 (Contributory Parent (Temporary)) visa;
(e) a Subclass 804 (Aged Parent) visa;
(f) a Subclass 838 (Aged Dependent Relative) visa;
(g) a Subclass 864 (Contributory Aged Parent) visa;
(h) a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

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(2) The Minister must not approve a sponsorship for a subclass of visa to which this regulation applies if:

(a) the Minister is satisfied that the sponsor of the applicant for the visa is:

(i) a holder or former holder of a Subclass 802 (Child) visa whose application for that visa was supported by a letter of support from a State or Territory government welfare authority; or

(ii) a cohabitating spouse or de facto partner of that holder or former holder; or

(iii) a guardian of that holder or former holder; or

(iv) a guardian of a person who is a cohabitating spouse or de facto partner of that holder or former holder; or

(v) a community organisation; and

(b) the Minister is satisfied that the applicant for the visa is or was a parent of a holder or former holder of a Subclass 802 (Child) visa whose application for that visa was supported by a letter of support from a State or Territory government welfare authority.

(3) Despite subregulation (2), the Minister may approve a sponsorship for a subclass of visa mentioned in subregulation (1) if the Minister is satisfied that there are compelling circumstances affecting the sponsor or the applicant to justify the approval of the sponsorship of the applicant for the visa.

(4) In this regulation:

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 the 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 a State or Territory government welfare authority.

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Division 1.5—Special provisions relating to family violence

1.21 Interpretation

In this Division:

independent expert means a person who:

(a) is suitably qualified to make independent assessments of non-judicially determined claims of family violence; and

(b) is employed by, or contracted to provide services to, an organisation that is specified, in a legislative instrument made by the Minister, for the purpose of making independent assessments of non-judicially determined claims of family violence.

non-judicially determined claim of family violence has the meaning given by subregulations 1.23(8) and (9).

relevant family violence means conduct, whether actual or threatened, towards:

(a) the alleged victim; or

(b) a member of the family unit of the alleged victim; or

(c) a member of the family unit of the alleged perpetrator; or

(d) the property of the alleged victim; or

(e) the property of a member of the family unit of the alleged victim; or

(f) the property of a member of the family unit of the alleged perpetrator;

that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.

statutory declaration means a statutory declaration under the *Statutory Declarations Act 1959*.

violence includes a threat of violence.

1.22 References to person having experienced or committed family violence

(1) A reference in these Regulations to a person having experienced family violence is a reference to a person being taken, under regulation 1.23, to have experienced family violence.

(2) A reference in these Regulations to a person having committed family violence in relation to a person is a reference to a person being taken, under regulation 1.23, to have committed family violence in relation to that person.

1.23 When is a person taken to have experienced or committed family violence?

(1) For these Regulations, this regulation explains when:

(a) a person (the ***alleged victim***) is taken to have experienced family violence; and

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(b) another person (the ***alleged perpetrator***) is taken to have committed family violence in relation to the alleged victim.

Note: Schedule 2 sets out which visas may be granted on the basis of a person having experienced family violence. The criteria to be satisfied for the visa to be granted set out which persons may be taken to have experienced family violence, and how those persons are related to the spouse or de facto partner of, or the prospective spouse of, the alleged perpetrator mentioned in this regulation.

Circumstances in which family violence is experienced and committed—injunction under Family Law Act 1975

(2) The alleged victim is taken to have experienced family violence, and the alleged perpetrator is taken to have committed family violence, if, on the application of the alleged victim, a court has granted an injunction under paragraph 114(1)(a), (b) or (c) of the *Family Law Act 1975* against the alleged perpetrator.

(3) For subregulation (2), the violence, or part of the violence, that led to the granting of the injunction must have occurred while the married relationship between the alleged perpetrator and the spouse of the alleged perpetrator existed.

Circumstances in which family violence is experienced and committed—court order

(4) The alleged victim is taken to have experienced family violence, and the alleged perpetrator is taken to have committed family violence, if:
(a) a court has made an order under a law of a State or Territory against the alleged perpetrator for the protection of the alleged victim from violence; and
(b) the order was made after the court had given the alleged perpetrator an opportunity to be heard, or otherwise to make submissions to the court, in relation to the matter.

(5) For subregulation (4), the violence, or part of the violence, that led to the granting of the order must have occurred while:
(a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or
(b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

Circumstances in which family violence is experienced and committed—conviction

(6) The alleged victim is taken to have experienced family violence, and the alleged perpetrator is taken to have committed family violence, if a court has:
(a) convicted the alleged perpetrator of an offence of violence against the alleged victim; or
(b) recorded a finding of guilt against the alleged perpetrator in respect of an offence of violence against the alleged victim.

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(7) For subregulation (6), the violence, or part of the violence, that led to the conviction or recording of a finding of guilt must have occurred while:
  (a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or
  (b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

Circumstances in which family violence is experienced and committed—non-judicially determined claim of family violence

(8) For these Regulations, an application for a visa is taken to include a ***non-judicially determined claim of family violence*** if:
  (a) the applicant seeks to satisfy a prescribed criterion that the applicant, or another person mentioned in the criterion, has experienced family violence; and
  (b) the alleged victim and the alleged perpetrator have made a joint undertaking to a court in relation to proceedings in which an allegation is before the court that the alleged perpetrator has committed an act of violence against the alleged victim.

(9) For these Regulations, an application for a visa is taken to include a ***non-judicially determined claim of family violence*** if:
  (a) the applicant seeks to satisfy a prescribed criterion that the applicant, or another person mentioned in the criterion, has experienced family violence; and
  (b) the alleged victim is:
    (i) a spouse or de facto partner of, or a prospective spouse of, the alleged perpetrator; or
    (ii) a dependent child of:
      (A) the alleged perpetrator; or
      (B) the spouse or de facto partner of, or the prospective spouse of, the alleged perpetrator; or
      (C) both the alleged perpetrator and the spouse or de facto partner of, or the prospective spouse of, the alleged perpetrator; or
    (iii) a member of the family unit of a spouse or de facto partner of, or a prospective spouse of, the alleged perpetrator who has made a combined application for a visa with the spouse, de facto partner or prospective spouse (as the case may be); and
  (c) the alleged victim or another person on the alleged victim's behalf has presented evidence in accordance with regulation 1.24 that:
    (i) the alleged victim has experienced relevant family violence; and
    (ii) the alleged perpetrator committed that relevant family violence.

(10) If an application for a visa includes a non-judicially determined claim of family violence:

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(a) the Minister must consider whether the alleged victim has experienced relevant family violence; and

(b) if the Minister is satisfied that the alleged victim has experienced the relevant family violence, the Minister must consider the application on that basis; and

(c) if the Minister is not satisfied that the alleged victim has experienced the relevant family violence:

(i) the Minister must seek the opinion of an independent expert about whether the alleged victim has experienced the relevant family violence; and

(ii) the Minister must take an independent expert's opinion on the matter to be correct for the purposes of deciding whether the alleged victim satisfies a prescribed criterion for a visa that requires the applicant for the visa, or another person mentioned in the criterion, to have experienced family violence.

(11) The alleged victim is taken to have experienced family violence, and the alleged perpetrator is taken to have committed family violence, if:

(a) an application for a visa includes a non-judicially determined claim of family violence; and

(b) the Minister is satisfied under paragraph (10)(b) that the alleged victim has experienced relevant family violence.

(12) For subregulation (11), the Minister must be satisfied that the relevant family violence, or part of the relevant family violence, occurred while:

(a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or

(b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

(13) The alleged victim is taken to have experienced family violence, and the alleged perpetrator is taken to have committed family violence, if:

(a) an application for a visa includes a non-judicially determined claim of family violence; and

(b) the Minister is required by subparagraph (10)(c)(ii) to take as correct an opinion of an independent expert that the alleged victim has experienced relevant family violence.

(14) For subregulation (13), the violence, or part of the violence, that led to the independent expert having the opinion that the alleged victim has experienced relevant family violence must have occurred while:

(a) the married relationship or de facto relationship existed between the alleged perpetrator and the spouse or de facto partner of the alleged perpetrator; or

(b) the relationship existed between the alleged perpetrator and the prospective spouse of the alleged perpetrator.

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1.24 Evidence

The evidence mentioned in paragraph 1.23(9)(c) is:

(a) a statutory declaration under regulation 1.25 (which deals with statutory declarations by or on behalf of alleged victims); and

(b) the type and number of items of evidence specified by the Minister by instrument in writing for this paragraph.

1.25 Statutory declaration by alleged victim etc

(1) A statutory declaration under this regulation must be made by the spouse or de facto partner of, or the prospective spouse of, the alleged perpetrator.

(2) A statutory declaration under this regulation that is made by a person mentioned in subregulation (1) who alleges that he or she is the victim of relevant family violence (within the meaning of regulation 1.21) must:

(a) set out the allegation; and

(b) name the person alleged to have committed the relevant family violence; and

(c) if the conduct of the person alleged to have committed the relevant family violence was not towards the alleged victim:

(i) name the person whom the conduct of the alleged perpetrator was towards; and

(ii) identify the relationship between the maker of the statutory declaration and the person whom the conduct was towards.

(3) A statutory declaration under this regulation that is made by a person mentioned in subregulation (1) who alleges that another person is the victim of relevant family violence (within the meaning of regulation 1.21) must:

(a) name that other person; and

(b) set out the allegation; and

(c) identify the relationship of the maker of the statutory declaration to that other person; and

(d) name the person alleged to have committed the relevant family violence; and

(e) if the conduct of the person alleged to have committed the relevant family violence was not towards the alleged victim:

(i) name the person whom the conduct of the alleged perpetrator was towards; and

(ii) identify the relationship between the alleged victim and the person whom the conduct was towards; and

(iii) identify the relationship between the maker of the statutory declaration and the person whom the conduct was towards; and

(f) set out the evidence on which the allegation is based.

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1.27 Documents not admissible in evidence

A document mentioned in the table is not admissible in evidence before a court or tribunal otherwise than in:

(a) an application for judicial review of a decision to refuse to grant a visa the application for which included the non-judicially determined claim of family violence to which the document relates; or

(b) an application for merits review of a decision to refuse to grant a visa the application for which included the non-judicially determined claim of family violence to which the document relates; or

(c) a prosecution of a maker of the statutory declaration under section 11 of the *Statutory Declarations Act 1959*.

Item	Document
1	A statutory declaration that is a type of evidence specified by the Minister under paragraph 1.24(b)
2	A statutory declaration under regulation 1.25
3	An opinion of an independent expert mentioned in subparagraph 1.23(10)(c)(i)

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Division 1.6—Immigration Minister's suspension certificate under Education Services for Overseas Students Act 2000

1.29 Score relevant to suspension of registered provider

(1) This regulation is made for the purposes of paragraph 97(2)(d) of the *Education Services for Overseas Students Act 2000*.

(2) In considering whether to give an Immigration Minister's suspension certificate to a registered provider at a particular time, the Minister may have regard to the relevant score that has effect for the registered provider at that time.

(3) The Minister may, by legislative instrument, specify the following:
  (a) the method for working out a score for a registered provider;
  (b) when, and how often, a relevant score for a registered provider is to be worked out;
  (c) the period for which a relevant score has effect for a registered provider.

(4) Without limiting paragraph (3)(a), the method specified in the instrument made under that paragraph may take into account the following:
  (a) matters relating to overseas students, or intending overseas students, in respect of:
    (i) the registered provider; or
    (ii) another provider that is an associate of the registered provider;
  (b) matters that occurred during a particular period, whether that period ends before or after the commencement of this regulation.

(5) In this regulation:

associate has the same meaning as in the *Education Services for Overseas Students Act 2000*.

Immigration Minister's suspension certificate has the same meaning as in the *Education Services for Overseas Students Act 2000*.

intending overseas student has the same meaning as in the *Education Services for Overseas Students Act 2000*.

overseas student has the same meaning as in the *Education Services for Overseas Students Act 2000*.

registered provider has the same meaning as in the *Education Services for Overseas Students Act 2000*.

relevant score means a score that is worked out for a registered provider using the method specified in the instrument made under paragraph (3)(a).

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Regulation 1.30

1.30 Prescribed non-citizen

For section 101 of the *Education Services for Overseas Students Act 2000*, a non-citizen who is an applicant for, or the holder of, a student visa is prescribed.

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Part 2—Visas

Division 2.1—Classes, criteria, conditions etc

2.01 Classes of visas

Classes of visas prescribed by section 31 of the Act

(1) For the purposes of section 31 of the Act, the prescribed classes of visas are:
  (a) such classes (other than those identified by an item in the table in subregulation (2)) as are set out in the respective items in Schedule 1; and
  (b) the following classes:
    (i) transitional (permanent); and
    (ii) transitional (temporary).

Classes of visas provided for by the Act

(2) A class of visas provided for by the Act that is identified by an item in the following table is classified under these Regulations, by Class and Subclass, as indicated in the item.

Classes of visas provided for by the Act

Item	Provision of the Act	Class of visa provided for by the Act	Classification by Class under these Regulations	Classification by Subclass under these Regulations
1	section 32	special category visas	Special Category (Temporary) (Class TY)	Subclass 444 (Special Category)
2	subsection 35A(2)	permanent protection visas	Protection (Class XA)	Subclass 866 (Protection)
3	subsection 35A(3)	temporary protection visas	Temporary Protection (Class XD)	Subclass 785 (Temporary Protection)
3A	subsection 35A(3A)	safe haven enterprise visas	Safe Haven Enterprise (Class XE)	Subclass 790 (Safe Haven Enterprise)
4	section 37	bridging visas	Bridging A (Class WA)	Subclass 010 (Bridging A)
5	section 37	bridging visas	Bridging B (Class WB)	Subclass 020 (Bridging B)
6	section 37	bridging visas	Bridging C (Class WC)	Subclass 030 (Bridging C)
7	section 37	bridging visas	Bridging D (Class WD)	Subclass 040 (Bridging (Prospective Applicant))

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Classes of visas provided for by the Act				
Item	**Provision of the Act**	**Class of visa provided for by the Act**	**Classification by Class under these Regulations**	**Classification by Subclass under these Regulations**
8	section 37	bridging visas	Bridging D (Class WD)	Subclass 041 (Bridging (Non-applicant))
9	section 37	bridging visas	Bridging E (Class WE)	Subclass 050 (Bridging (General))
10	section 37	bridging visas	Bridging E (Class WE)	Subclass 051 (Bridging (Protection Visa Applicant))
11	section 37	bridging visas	Bridging F (Class WF)	Subclass 060 (Bridging F)
12	section 37	bridging visas	Bridging R (Class WR)	Subclass 070 (Bridging (Removal Pending))
13	section 37A	temporary safe haven visas	Temporary Safe Haven (Class UJ)	Subclass 449 (Humanitarian Stay (Temporary))
14	section 38B	maritime crew visas	Maritime Crew (Temporary) (Class ZM)	Subclass 988 (Maritime Crew)

Note 1: Subsection 35A(4) of the Act provides that additional classes of permanent and temporary visas may be prescribed as protection visas for the purposes of section 31.

Note 2: For table items 4-12, section 37 provides that there are classes of temporary visas, to be known as bridging visas.

2.02 Subclasses

(1) Schedule 2 is divided into Parts, each identified by the word "Subclass" followed by a 3-digit number (being the number of the subclass of visa to which the Part relates) and the title of the subclass.

(2) For the purposes of this Part and Schedules 1 and 2, a Part of Schedule 2 is relevant to a particular class of visa if the Part of Schedule 2 is listed under the subitem "Subclasses" in the item in Schedule 1 that refers to that class of visa.

2.03 Criteria applicable to classes of visas

(1) For the purposes of subsection 31(3) of the Act (which deals with criteria for the grant of a visa) and subject to other provisions of these Regulations, the prescribed criteria for the grant to a person of a visa of a particular class are:
  (a) the primary criteria set out in a relevant Part of Schedule 2; or
  (b) if a relevant Part of Schedule 2 sets out secondary criteria, those secondary criteria.

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(1A) However, if one or more criteria are set out in a Subdivision of a Part of Schedule 2 as a 'stream':

(a) the primary criteria mentioned in paragraph (1)(a) are taken to be:

(i) the primary criteria described as that stream; and

(ii) all primary criteria that are not described as a stream; and

(b) the secondary criteria mentioned in paragraph (1)(b) are taken to be:

(i) the secondary criteria described as that stream; and

(ii) all secondary criteria that are not described as a stream.

Example: Part 188 of Schedule 2 sets out the criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa. The Part includes a Subdivision setting out common primary criteria and several Subdivisions setting out primary criteria that are described as streams, including a Business Innovation stream. The primary criteria mentioned in paragraph (1)(a) are taken to be the Business Innovation stream and all primary criteria that are not described as a stream.

(1B) If one or more criteria are set out in a Subdivision of a Part of Schedule 2 as a 'stream', the visa to which the Part relates may be described as '[the Subclass of the visa] in the [name of the stream]'.

Example: A visa whose criteria are set out in Part 188 of Schedule 2, and include criteria in the Business Innovation stream, may be described as a Subclass 188 visa in the Business Innovation stream.

(2) If a criterion in Schedule 2 refers to a criterion in Schedule 3, 4 or 5 by number, a criterion so referred to must be satisfied by an applicant as if it were set out at length in the first-mentioned criterion.

(3) If a criterion in Schedule 2 specifies that a person is to be the holder of, or have held, a visa of a particular class or subclass, that criterion is taken to be satisfied:

(a) if:

(i) before 1 September 1994, the person held a visa or entry permit that was granted under the Migration (1993) Regulations, the Migration (1989) Regulations or the Act as in force before 19 December 1989; and

(ii) the criteria that were applicable to, or the grounds for the grant of, that visa or entry permit are the same in effect as the criteria applicable to the new visa; and

(iii) the visa or entry permit was continued in force as a transitional visa on 1 September 1994 by the Migration Reform (Transitional Provisions) Regulations; or

(b) if:

(i) before 1 September 1994, the person applied for a visa or entry permit under the Migration (1993) Regulations, the Migration (1989) Regulations or the Act as in force before 19 December 1989; and

(ii) the criteria that were applicable to, or the grounds for the grant of, that visa or entry permit are the same in effect as the criteria applicable to the new visa; and

(iii) either:

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(A) in the case of an application made before 19 December 1989—the Minister had not made a decision on the application; or

(B) in any other case—the application had not been finally determined;

before 1 September 1994; and

(iv) on or after 1 September 1994 the person was granted a transitional visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she had satisfied the criteria, or the grounds, applicable to the visa or entry permit referred to in subparagraph (i).

2.03A Criteria applicable to de facto partners

(1) In addition to the criteria prescribed by regulations 2.03 and 2.03AA, if a person claims to be in a de facto relationship for the purposes of a visa application, the criteria in subregulations (2) and (3) are prescribed.

(2) If a person mentioned in subregulation (1) applies for a visa:

(a) the applicant is at least 18; and

(b) the person with whom the applicant claims to be in a de facto relationship is at least 18.

(3) Subject to subregulations (4) and (5), if:

(a) a person mentioned in subregulation (1) applies for:

(i) a permanent visa; or

(ii) a Business Skills (Provisional) (Class UR) visa; or

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

(iib) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or

(iii) a Student (Temporary) (Class TU) visa; or

(iv) a Partner (Provisional) (Class UF) visa; or

(v) a Partner (Temporary) (Class UK) visa; or

(vi) a General Skilled Migration visa; and

(b) the applicant cannot establish compelling and compassionate circumstances for the grant of the visa;

the Minister must be satisfied that the applicant has been in the de facto relationship for at least the period of 12 months ending immediately before the date of the application.

(4) Subregulation (3) does not apply if the applicant applies on the basis of being:

(a) in a de facto relationship with a person who:

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

(ii) before the permanent humanitarian visa was granted, was in a de facto relationship with the applicant and informed Immigration of the existence of the relationship; or

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(b) in a de facto relationship with a person who is an applicant for a permanent humanitarian visa.

(5) Subregulation (3) does not apply if the de facto relationship is a registered relationship within the meaning of section 2E of the *Acts Interpretation Act 1901*.

2.03AA Criteria applicable to character tests and security assessments

(1) In addition to the criteria prescribed by regulations 2.03 and 2.03A, if a person is required to satisfy public interest criteria 4001 or 4002 for the grant of a visa, the criterion in subregulation (2) is prescribed.

(2) If the Minister has requested the following documents or information, the person has provided the documents or information:

(a) a statement (however described) provided by an appropriate authority in a country where the person resides, or has resided, that provides evidence about whether or not the person has a criminal history;

(b) a completed approved form 80.

Note: For paragraph (a), an example of an appropriate authority is a police force.

(3) The Minister may waive the requirement in paragraph (2)(a) if the Minister is satisfied that it is not reasonable for the applicant to provide the statement.

2.03B Protection visas—international instruments

For paragraph 5H(2)(a) and subparagraph 36(2C)(a)(i) of the Act, each international instrument that defines a crime against peace, a war crime or a crime against humanity is prescribed.

Examples of Instruments that may define crimes against peace, war crimes or crimes against humanity

1 Rome Statute of the International Criminal Court, done at Rome on 17 July 1998.

2 Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, signed at London on 8 August 1945.

3 Charter of the International Military Tribunal, signed at London on 8 August 1945.

4 Convention on the Prevention and Punishment of the Crime of Genocide, approved in New York on 9 December 1948.

5 The First Convention within the meaning of the *Geneva Conventions Act 1957*.

6 The Second Convention within the meaning of the *Geneva Conventions Act 1957*.

7 The Third Convention within the meaning of the *Geneva Conventions Act 1957*.

8 The Fourth Convention within the meaning of the *Geneva Conventions Act 1957*.

9 Protocol I within the meaning of the *Geneva Conventions Act 1957*.

10 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), done at Geneva on 8 June 1977.

11 Statute of the International Criminal Tribunal for the former Yugoslavia, adopted by the United Nations Security Council on 25 May 1993.

12 Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such

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Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994; adopted by the United Nations Security Council on 8 November 1994.

2.04 Circumstances in which a visa may be granted

For subsection 40(1) of the Act and subject to other provisions of these Regulations, a visa may be granted to a person who has satisfied the criteria in the relevant Part of Schedule 2 only if:

(a) the circumstances set out in that Part exist; and

(b) if the person has been required under section 257A of the Act to provide one or more personal identifiers—the person has complied with the requirement, or the requirement has been withdrawn.

2.05 Conditions applicable to visas

(1) For subsection 41(1) of the Act, a visa is subject to any conditions specified for that Subclass of visa in Schedule 2, subject to subregulation (2) and regulation 2.25AE.

Note: Regulation 2.40A prescribes conditions in relation to special purpose visas taken to have been granted to airline positioning crew members and airline crew members.

(2) For subsection 41(3) of the Act, the conditions that the Minister is permitted to impose on a visa are the conditions (if any) specified as permitted for that Subclass of visa in Schedule 2.

Note: Conditions referred to by number in Schedule 2 are set out in Schedule 8: see the definition of ***condition*** in regulation 1.03.

(3) For the purposes of subsections 29(2) and (3) of the Act (which deal with the period during which the holder of a visa may travel to, enter and remain in Australia), the limits on the period within which a person may:

(a) remain in Australia; or

(b) travel to, enter, and remain in Australia;

as the case requires, under the authority of a visa of a particular subclass are specified in the relevant Part of Schedule 2.

(4) For subsection 41(2A) of the Act, the circumstances in which the Minister may waive a condition of a kind described in paragraph 41(2)(a) of the Act are that:

(a) since the person was granted the visa that was subject to the condition, compelling and compassionate circumstances have developed:

(i) over which the person had no control; and

(ii) that resulted in a major change to the person's circumstances; and

(b) if the Minister has previously refused to waive the condition, the Minister is satisfied that the circumstances mentioned in paragraph (a) are substantially different from those considered previously; and

(c) if the person asks the Minister to waive the condition, the request is in writing.

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(4AA) For subsection 41(2A) of the Act, a further circumstance in which the Minister may waive condition 8503 in relation to a visa is that the holder of the visa has a genuine intention to apply for:

(a) a General Skilled Migration visa; or

(c) a Subclass 186 (Employer Nomination Scheme) visa; or

(d) a Subclass 187 (Regional Sponsored Migration Scheme) visa; or

(e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa; or

(ea) a Subclass 191 (Permanent Residence (Skilled Regional)) visa; or

(f) a Subclass 482 (Temporary Skill Shortage) visa; or

(g) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(4AB) For subsection 41(2A) of the Act, further circumstances in which the Minister may waive condition 8503 in relation to a visa are that the holder of the visa:

(a) either:

(i) holds a safe haven enterprise visa; or

(ii) is a lawful non-citizen who has ever held a safe haven enterprise visa; and

(b) satisfies the requirements of subregulation 2.06AAB(2).

(4AC) For paragraph 41(2B)(b) of the Act, the following visas are prescribed:

(a) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa;

(b) a Subclass 457 (Temporary Work (Skilled)) visa;

(c) a Subclass 482 (Temporary Skill Shortage) visa;

(d) a Subclass 988 (Maritime Crew) visa held by a petroleum export tanker crew member.

(5A) For subsection 41(2A) of the Act, further circumstances in which the Minister may waive condition 8534 in relation to a visa are that the holder of the visa:

(a) has completed the course for which the visa was granted; and

(b) has a genuine intention to apply for:

(i) a General Skilled Migration visa; or

(iii) a Subclass 186 (Employer Nomination Scheme) visa; or

(iv) a Subclass 187 (Regional Sponsored Migration Scheme) visa; or

(v) a Subclass 188 (Business Innovation and Investment (Provisional)) visa; or

(va) a Subclass 191 (Permanent Residence (Skilled Regional)) visa; or

(vi) a Subclass 482 (Temporary Skill Shortage) visa; or

(vii) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

2.05A Extension of certain visas held by Ukraine passport holders etc.

(1) Despite anything in Schedule 2 to these Regulations, a visa to which subregulation (2), (3) or (4) of this regulation applies is a temporary visa permitting the holder to travel to, enter and remain in Australia until 6 months after the original end date of the visa.

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Eligibility for extension

(2) This subregulation applies to a visa, at and after the end of 23 February 2022, if:
  (a) the visa is any of the following visas:
    (i) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa;
    (ii) a Subclass 408 (Temporary Activity) visa;
    (iii) a Subclass 457 (Temporary Work (Skilled)) visa;
    (iv) a Subclass 482 (Temporary Skill Shortage) visa;
    (v) a Subclass 485 (Temporary Graduate) visa;
    (vi) a Subclass 500 (Student) visa; and
  (b) on the date of grant of the visa, the person to whom the visa was granted held a valid passport issued by Ukraine; and
  (c) the original end date of the visa is:
    (i) on or after 23 February 2022; and
    (ii) before 1 July 2022; and
  (d) on 23 February 2022:
    (i) the person is in Australia; and
    (ii) the visa is in effect.

(3) This subregulation applies to a visa held by a person if:
  (a) the visa was granted to the person on or before 23 February 2022 on the basis that the person satisfied the secondary criteria for the grant of the visa as a member of the family unit of a person who holds a visa (the ***primary visa***) of the same subclass granted on the basis of satisfying the primary criteria for the grant of the visa; and
  (b) subregulation (2) or (4) applies to the primary visa.

(4) If:
  (a) a visa (the ***secondary visa***) was granted to a person on or before 23 February 2022 on the basis that the person satisfied the secondary criteria for the grant of the visa as a member of the family unit of the person who holds a visa (the ***primary visa***) of the same subclass granted on the basis of satisfying the primary criteria for the grant of the visa; and
  (b) subregulation (2) applies to the secondary visa;

then this subregulation applies to the primary visa.

Original end date

(5) For the purposes of this regulation, the ***original end date*** of a visa mentioned in column 1 of an item of the following table is the day mentioned in column 2 of the item.

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Original end dates		
Item	**Column 1** **Visa**	**Column 2** **Original end date**
1	a visa not covered by another item of this table	the last day on which, disregarding this regulation, the holder of the visa can travel to, enter and remain in Australia under the visa
2	Subclass 400 (Temporary Work (Short Stay Specialist)) visa	the last day of the period mentioned in paragraph 400.511(b) of Schedule 2 in relation to the visa
3	Subclass 408 (Temporary Activity) visa	the day that, disregarding this regulation, is the last day of the relevant period of stay mentioned in clause 408.511 of Schedule 2

2.05B Extension of certain Subclass 600 visas held by Ukraine passport holders

(1) Despite anything in Division 600.5 of Schedule 2, a visa to which subregulation (2) of this regulation applies is a temporary visa permitting the holder to:

(a) travel to and enter Australia until the later of:

(i) the original validity end date of the visa; and

(ii) 6 months after the original remain end date of the visa; and

(b) remain in Australia, after each entry, for a period that is 6 months longer than the original remain period of the visa.

Eligibility for extension

(2) This subregulation applies to a visa, at and after the end of 23 February 2022, if:

(a) the visa is a Subclass 600 (Visitor) visa; and

(b) on the date of grant of the visa, the person to whom the visa was granted held a valid passport issued by Ukraine; and

(c) the original remain end date of the visa is:

(i) on or after 23 February 2022; and

(ii) before 1 July 2022; and

(d) on 23 February 2022:

(i) the person is in Australia; and

(ii) the visa is in effect.

Definitions

(3) In this regulation:

original remain end date of a Subclass 600 (Visitor) visa held by a person means the day that, on 23 February 2022, is the last day on which, disregarding this regulation, the person can remain in Australia under the visa (without leaving and re-entering Australia).

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original remain period of a Subclass 600 (Visitor) visa held by a person means the period specified in relation to the visa as mentioned in clause 600.511 or 600.512 of Schedule 2 as the period for which the person can remain in Australia after each entry under the visa.

original validity end date of a Subclass 600 (Visitor) visa held by a person means the last day on which, disregarding this regulation, the person can travel to and enter Australia under the visa.

2.06 Non-citizens who do not require visas to travel to Australia

For subsection 42(3) of the Act (which deals with the classes of person who may travel to Australia without a visa that is in effect), the class of New Zealand citizens who hold and produce New Zealand passports that are in force is prescribed.

2.06AAA Entry to Australia—Maritime Crew (Temporary) (Class ZM) visas

(1) For subsection 43(1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia on a non-military ship at a proclaimed port, other than at an excised offshore place.

(2) For subsection 43(1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia if:
  (a) the holder is on a non-military ship; and
  (b) the ship enters Australia at an excised offshore place that is:
    (i) a proclaimed port; or
    (ii) a place for which permission has been given, in advance under section 58 of the *Customs Act 1901*, for the ship to be brought to that place; and
  (c) before the holder enters Australia, the operator of the ship has complied with the reporting requirements in sections 64, 64ACA and 64ACB of the *Customs Act 1901* in accordance with those sections and the *Customs Regulation 2015*.

Note: The reporting requirements in sections 64, 64ACA and 64ACB of the *Customs Act 1901* provide, in general, that an operator of a ship that is due to arrive at a port must:
(a) report the impending arrival of the ship; and
(b) report to the Department on the passengers who will be on board the ship at the time of its arrival in port; and
(c) report to the Department on the crew who will be on board the ship at the time of its arrival in port.

The Customs Act and the *Customs Regulation 2015* specify time limits within which the reporting is to be done.

(3) For subsection 43(1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia in a way other than those described in subregulations (1) and (2) if:
  (a) health or safety reasons require entry in that way; and
  (b) the holder of the visa does not enter Australia at an excised offshore place.

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(4) For subsection 43(1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia in a way other than those described in subregulations (1), (2) and (3) if an authorised officer authorises the holder to enter Australia in that way.

2.06AAB Visa applications by holders and certain former holders of safe haven enterprise visas

(1) For paragraph 46A(1A)(b) of the Act, visas of the subclasses listed in the following table are prescribed:

Visas for which holders and certain former holders of safe haven enterprise visas may apply

Item	Visa subclass
1A	Subclass 010 (Bridging A)
1B	Subclass 030 (Bridging C)
2	Subclass 143 (Contributory Parent)
3	Subclass 186 (Employer Nomination Scheme)
4	Subclass 187 (Regional Sponsored Migration Scheme)
5	Subclass 188 (Business Innovation and Investment (Provisional))
6	Subclass 189 (Skilled—Independent)
7	Subclass 190 (Skilled—Nominated)
9	Subclass 405 (Investor Retirement)
10	Subclass 407 (Training)
11	Subclass 445 (Dependent Child)
13	Subclass 476 (Skilled—Recognised Graduate)
13A	Subclass 482 (Temporary Skill Shortage)
14	Subclass 489 (Skilled—Regional (Provisional))
14A	Subclass 491 (Skilled Work Regional (Provisional))
14B	Subclass 494 (Skilled Employer Sponsored Regional (Provisional))
15	Subclass 500 (Student)
16	Subclass 590 (Student Guardian)
22	Subclass 801 (Partner)
23	Subclass 802 (Child)
24	Subclass 804 (Aged Parent)
25	Subclass 820 (Partner)
26	Subclass 835 (Remaining Relative)
27	Subclass 836 (Carer)
28	Subclass 837 (Orphan Relative)
29	Subclass 838 (Aged Dependent Relative)
30	Subclass 858 (National Innovation)
31	Subclass 864 (Contributory Aged Parent)

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Regulation 2.06AAB

Visas for which holders and certain former holders of safe haven enterprise visas may apply	
Item	**Visa subclass**
32	Subclass 884 (Contributory Aged Parent (Temporary))

(2) For the purposes of paragraph 46A(1A)(c) of the Act, an applicant for a visa of a class mentioned in subregulation (1), who currently holds, or has ever held, a safe haven enterprise visa must:

(a) subject to subregulation (4), for a period or periods totalling 42 months (which need not be continuous), as the holder of one or more safe haven enterprise visas, satisfy one of the following requirements:

(i) the applicant does not receive any social security benefits determined under subregulation (3), and is engaged in employment, as determined under that subregulation, in a regional area specified, at that time or at any later time occurring before the application is made, under subitem 1404(4) of Schedule 1;

(ii) the applicant is enrolled in full-time study at an educational institution, as determined under subregulation (3), in a regional area specified, at that time or at any later time occurring before the application is made, under subitem 1404(4) of Schedule 1;

(iii) the applicant satisfies a combination of the requirements in subparagraph (i) and subparagraph (ii), at different times; or

(b) be the member of the same family unit of, and have made a combined application with, a non-citizen who:

(i) is an applicant for the same class of visa; and

(ii) meets the requirements of paragraphs 46A(1A)(a) and (b) of the Act; and

(iii) meets the requirements of paragraph (a) of this subregulation.

(3) The Minister may, by legislative instrument, make a determination for the purposes of subparagraphs (2)(a)(i) and (ii).

(4) Any of the following periods may be counted for the purposes of calculating the period or periods totalling 42 months mentioned in paragraph (2)(a):

(a) any period during which the applicant receives social security benefits determined under subregulation (3) during a concession period;

(b) any period during which the applicant is unemployed during a concession period;

(c) any period during which the applicant is, during a concession period, employed in employment that is determined to be an essential service by the Minister under subregulation (5).

(5) The Minister may, by legislative instrument, make a determination for the purposes of paragraph (4)(c).

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2.06AAC Entry to Australia—persons entering to participate in, or support, offshore resources activities

(1) For paragraph 43(1)(c) of the Act, the following reason is prescribed:

(a) the visa held by the visa holder is:

(i) a permanent visa; or

(ii) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa; or

(iii) a Subclass 457 (Temporary Work (Skilled)) visa; or

(iv) a Subclass 482 (Temporary Skill Shortage) visa; and

(b) the holder is a person who will be in an area to participate in, or to support, an offshore resources activity in relation to that area.

Note 1: Paragraph 43(1)(c) of the Act provides that if the holder of a visa that is in effect travels to Australia on a vessel, and a prescribed reason makes it necessary to enter Australia in a way other than at a port, or on a pre-cleared flight, the visa is permission for the holder to enter Australia in that other way.

Note 2: Paragraph (b)—for the definition of ***offshore resources activity***, see subsection 9A(5) of the Act.

(2) For the purposes of paragraph 43(1A)(b) of the Act, a prescribed reason is that the holder of the maritime crew visa is a petroleum export tanker crew member.

Note: Paragraph 43(1A)(b) of the Act provides that if the holder of a maritime crew visa that is in effect travels to Australia, and a prescribed reason makes it necessary to enter Australia in a way other than at a proclaimed port, the visa is permission for the holder to enter Australia in that other way.

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Division 2.2—Applications

2.06A Definitions

In this Division:

a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia means a diplomatic office, consular office (other than a consular office headed by an honorary consul) or migration office maintained by or on behalf of the Commonwealth outside Australia.

review/court event occurs: see subregulation 2.08G(1A).

2.07 Application for visa—general

(1) For sections 45 and 46 of the Act (which deal with applications for visas), if an application is required for a particular class of visa:
  (a) the relevant item of Schedule 1 sets out the approved form (if any) to be completed by an applicant; and
  (b) regulation 2.12C and the relevant item of Schedule 1 set out:
    (i) the visa application charge (if any) payable in relation to an application; and
    (ii) the components that may be applicable to a particular application for the visa; and
  (c) the relevant item of Schedule 1 sets out other matters relating to the application.

Note: An item of Schedule 1 may provide for matters to be specified by the Minister in a legislative instrument made under subregulation (5).

(3) An applicant must complete an approved form in accordance with any directions on it.

(4) An application for a visa that is made using an approved form is not a valid application if the applicant does not set out his or her residential address:
  (a) in the form; or
  (b) in a separate document that accompanies the application.

(5) If an item of Schedule 1 prescribes criteria or requirements by reference to a legislative instrument made under this subregulation, the Minister may, by legislative instrument, specify any of the following matters for the purposes of such a criterion or requirement:
  (a) an approved form for making an application for a visa of a specified class;
  (b) the way in which an application for a visa of a specified class must be made;
  (c) the place at which an application for a visa of a specified class must be made;
  (d) any other matter.

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Note 1: For paragraph (b), examples of the way in which an application must be made include by the internet, orally, or by posting, faxing or emailing the application to a specified number or address.

Note 2: Regulation 2.10 sets out where an application for a visa must be made if no location for making the application is prescribed in relation to the visa in Schedule 1.

(6) The legislative instrument may specify different matters for:
  (a) different kinds of visa (however described); and
  (b) different classes of applicant.

2.07A Certain applications not valid bridging visa applications

An application for a substantive visa made on a form mentioned in subitem 1301(1), 1303(1) or 1305(1) of Schedule 1 is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa in either of the following circumstances:
  (a) the applicant was not in Australia when the application for the substantive visa was made;
  (b) the substantive visa is a visa of a kind that can only be granted if the applicant is outside Australia.

Note: Other provisions relating to the making of applications for bridging visas are regulations 2.10A, 2.10B and 2.20A.

2.07AA Applications for certain visitor visas

(2) Despite anything in regulation 2.07, for sections 45 and 46 of the Act, an application for a Subclass 600 (Visitor) visa in the Business Visitor stream is taken to have been validly made if:
  (a) the applicant is:
    (i) the holder of a valid passport issued by a designated APEC economy; or
    (ii) in the case of an applicant who is a permanent resident of Hong Kong—the holder of any valid passport; and
  (b) the applicant:
    (i) has applied to the Government of the designated APEC economy for an APEC Business Travel Card under arrangements in force between Australia and designated APEC economies; or
    (ii) in the case of an applicant who is a permanent resident of Hong Kong—has applied to the Government of Hong Kong for an APEC Business Travel Card under arrangements in force between Australia and designated APEC economies; and
  (c) that Government has provided that application or the information contained in that application to Immigration.

2.07AB Applications for Electronic Travel Authority visas

(1AA) For the purposes of subsection 46(2) of the Act:
  (a) the Electronic Travel Authority (Class UD) visa class is prescribed; and

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(b) an application for a visa of that class is taken to have been validly made in the circumstances set out in subregulation (1) or (2) of this regulation (despite anything in regulation 2.07 or 2.10).

Note 1: An application made in accordance with subregulation (1) or (2) does not need to be made:
(a) in the approved form mentioned in subitem 1208A(1) of Schedule 1; or
(b) in the manner or at the place mentioned in paragraph 1208A(3)(a) of Schedule 1.

Note 2: The visa application charge for an application for an Electronic Travel Authority (Class UD) visa is nil: see subitem 1208A(2) of Schedule 1.

(1) An application for an Electronic Travel Authority (Class UD) visa that is made by the applicant while outside Australia is taken to have been validly made if the applicant, when seeking the grant of the visa, whether:
(a) in person; or
(b) by telephone; or
(c) by written communication (including facsimile message or email); or
(d) by electronic transmission using a computer; or
(e) in any other manner approved in writing by the Minister;
provides details of an ETA-eligible passport held by the applicant to:
(f) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
(g) an office (whether in or outside Australia) of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made.

(2) An application for an Electronic Travel Authority (Class UD) visa that is made by the applicant, in person, while in immigration clearance, is taken to have been validly made if:
(a) the applicant presents to an officer an ETA-eligible passport held by the applicant; and
(c) after reasonable enquiries, the officer does not find that the applicant is the holder of a visa that is in effect; and
(d) the applicant asks an officer for an Electronic Travel Authority (Class UD) visa.

2.07AC Applications for Temporary Safe Haven and Temporary (Humanitarian Concern) visas

(1) For subsection 46(2) of the Act, each of the following classes of visa is a prescribed class of visa:
(a) the Temporary Safe Haven (Class UJ) visa class;
(b) the Temporary (Humanitarian Concern) (Class UO) visa class.

(2) An application for a visa of a class mentioned in subregulation (1) is taken to have been validly made by a person (the ***interviewee***) if:
(a) the interviewee indicates to an authorised officer that he or she accepts the Australian Government's offer of a temporary stay in Australia; and

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(b) the authorised officer endorses, in writing, the interviewee's acceptance of the offer.

(3) An application for a visa of a class mentioned in subregulation (1) is also taken to have been validly made by a person if an interviewee identifies the person as being a member of his or her family unit.

2.07AF Applications for Student (Temporary) (Class TU) visas

(1) This regulation applies in respect of an application for a Student (Temporary) (Class TU) visa.

(2) Despite anything in regulation 2.07, an application may be made on behalf of an applicant.

(3) An application by a person who seeks to satisfy the primary criteria (the ***primary applicant***) must include:
(a) the name, date of birth and citizenship of each person who is a member of the family unit of the applicant at the time of the application; and
(b) the relationship between the person and the applicant.

(4) If a person becomes a member of the family unit of the primary applicant after the time of application and before the time of decision, the primary applicant must inform the Minister, in writing, of:
(a) the name, date of birth and citizenship of the person and
(b) the relationship between the person and the primary applicant.

(5) Subregulations (3) and (4) apply:
(a) whether or not the member of the family unit is an applicant for a Student (Temporary) (Class TU) visa; and
(b) if the member of the family unit is not an applicant for a Student (Temporary) (Class TU) visa—whether or not the member of the family unit intends to become an applicant for a Student (Temporary) (Class TU) visa.

Note: ***member of the family unit*** of an applicant for a Student (Temporary) (Class TU) visa is defined in subregulation 1.12(6).

2.07AG Applications for certain substantive visas by persons for whom condition 8503 or 8534 has been waived under subregulation 2.05(4AA) or (5A)

(1) For section 46 of the Act, an application for a substantive visa by a person for whom condition 8503 has been waived under subregulation 2.05(4AA) is a valid application only if the application is for:
(a) a General Skilled Migration visa; or
(c) a Subclass 186 (Employer Nomination Scheme) visa; or
(d) a Subclass 187 (Regional Sponsored Migration Scheme) visa; or
(e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa; or

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(ea) a Subclass 191 (Permanent Residence (Skilled Regional)) visa; or
(f) a Subclass 482 (Temporary Skill Shortage) visa; or
(g) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(2) For section 46 of the Act, an application for a substantive visa by a person for whom condition 8534 has been waived under subregulation 2.05(5A) is a valid application only if the application is for:
(a) a General Skilled Migration visa; or
(c) a Subclass 186 (Employer Nomination Scheme) visa; or
(d) a Subclass 187 (Regional Sponsored Migration Scheme) visa; or
(e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa; or
(ea) a Subclass 191 (Permanent Residence (Skilled Regional)) visa; or
(f) a Subclass 482 (Temporary Skill Shortage) visa; or
(g) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

2.07AH Applications for certain substantive visas by persons for whom condition 8534 has been waived under subregulation 2.05(6) before 18 March 2018

For section 46 of the Act, if:
(a) condition 8534 has been waived under subregulation 2.05(6) (as in force before 18 March 2018) in relation to a visa held by a person; and
(b) the first application for a substantive visa that the person makes after the waiver of the condition is made in Australia;

the application is taken to have been validly made only if it is an application for a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa.

2.07AI Applications for certain substantive visas by persons holding Subclass 173 or 884 visas

(1) For section 46 of the Act, an application for a substantive visa by a person in Australia who has, at any time since last entering Australia, held a Subclass 173 (Contributory Parent (Temporary)) visa is a valid application only if the application is for:
(a) a Contributory Parent (Migrant) (Class CA) visa; or
(b) a Medical Treatment (Visitor) (Class UB) visa; or
(c) a protection visa.

(2) For section 46 of the Act, an application for a substantive visa by a person in Australia who has, at any time since last entering Australia, held a Subclass 884 (Contributory Aged Parent (Temporary)) visa is a valid application only if the application is for:
(a) a Contributory Aged Parent (Residence) (Class DG) visa; or
(b) a Medical Treatment (Visitor) (Class UB) visa; or
(c) a protection visa.

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2.07AK Applications for Referred Stay (Permanent) (Class DH) visas

(1) For subsection 46(2) of the Act, a Referred Stay (Permanent) (Class DH) visa is a prescribed class of visa.

Note: Section 46 of the Act sets out the circumstances in which an application for a visa is valid. Under subsection 46(2) of the Act, an application for a visa is valid if:

- it is an application for a class of visa that is prescribed for that subsection; and
- under the regulations, the application is taken to have been validly made.

(2) An application for a visa of a class mentioned in subregulation (1) is taken to have been validly made by a person (a ***referred stay applicant***) only if the requirements of subregulation (3) or (5) are met.

(3) The requirements of this subregulation are met for a referred stay applicant if:

(a) the referred stay applicant is in Australia; and

(b) the Minister has, after taking into account information provided by a member of the Australian Federal Police of the substantive rank of Commander, or above, issued a certificate in relation to the referred stay applicant; and

(c) the Minister's certificate is to the effect that the referred stay applicant made a contribution to, and cooperated closely with, an investigation in relation to another person who was alleged to have engaged in human trafficking, slavery or slavery-like practices; and

(d) the Minister's certificate is in force; and

(e) the referred stay applicant:

(i) is not a subject of the investigation mentioned in the Minister's certificate; and

(ii) is not a subject of a prosecution that commenced directly as a result of that investigation; and

(f) the Minister is satisfied that the referred stay applicant would be in danger if he or she returned to his or her home country; and

(g) an offer of stay in Australia is made to the referred stay applicant by an authorised officer; and

(h) the referred stay applicant indicates in writing that he or she accepts the offer, not later than:

(i) 28 days after the referred stay applicant is taken to have received the offer; or

(ii) a later date determined by an authorised officer.

Note: See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

(4) A certificate mentioned in paragraph (3)(b) may be issued by a person authorised by the Minister for the purpose.

(5) The requirements of this subregulation are met for a referred stay applicant (the ***first applicant***) if:

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(a) another referred stay applicant (the ***second applicant***) is taken to have validly made an application for a visa of a class mentioned in subregulation (1) in accordance with subregulation (3); and
(b) the second applicant identifies the first applicant as being a member of the immediate family of the second applicant in the second applicant's written acceptance under paragraph (3)(h).

(6) For subregulation (5), the first applicant may be in or outside Australia.

2.07AL Applications for certain visas by contributory parent newborn children

(1) For section 46 of the Act, an application by a contributory parent newborn child for a Subclass 173 (Contributory Parent (Temporary)) visa is a valid application only if the parent holds or held:
(a) a Subclass 173 (Contributory Parent (Temporary)) visa; or
(b) a bridging visa, and the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa.

(2) For section 46 of the Act, an application by a contributory parent newborn child for a Subclass 884 (Contributory Aged Parent (Temporary)) visa is a valid application only if the parent holds or held:
(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.

2.07AM Applications for Refugee and Humanitarian (Class XB) visas

(1) For subsection 46(2) of the Act, a Refugee and Humanitarian (Class XB) visa is a prescribed class of visa.

(2) An application for a Refugee and Humanitarian (Class XB) visa is taken to have been validly made by a person only if the requirements in subregulation (3) or item 1402 of Schedule 1 have been met.

(3) The requirements are that:
(a) the person is a person mentioned in subregulation (5); and
(b) the Minister has invited the person to make an application for a Refugee and Humanitarian (Class XB) visa; and
(c) the person indicates to an authorised officer that he or she accepts the invitation; and
(d) the authorised officer endorses, in writing, the person's acceptance of the invitation.

(4) An application made under paragraph 1402(3)(a) of Schedule 1 is taken to have been made outside Australia.

(5) For paragraph (3)(a), the person is:
(a) a person who:

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(i) between 13 August 2012 and before the commencement of this subparagraph, entered Australia at an excised offshore place after the excision time for that place; and

(ii) became an unlawful non-citizen because of that entry; or

(b) a person who, on or after 13 August 2012, was taken to a place outside Australia under paragraph 245F(9)(b) of the Act; or

(c) a person who, on or after the commencement of this paragraph, is an unauthorised maritime arrival.

Note: For paragraph (c), see section 5AA of the Act.

2.07AP Applications for Maritime Crew (Temporary) (Class ZM) visas

Despite anything in regulation 2.07, an application for a Maritime Crew (Temporary) (Class ZM) visa may be made on behalf of an applicant.

Example: For convenience, an application for a Maritime Crew (Temporary) (Class ZM) visa could be completed and lodged by a third party such as a shipping agent or a manning agent, on behalf of a member of crew of a non-military ship or a member of the family unit of a member of the crew.

2.07AQ Applications for Resolution of Status (Class CD) visas

(1) For subsection 46(2) of the Act, a Resolution of Status (Class CD) visa is a prescribed class of visa.

(2) An application for a Resolution of Status (Class CD) visa is taken to have been validly made by a person only if the requirements of subregulation (3) or item 1127AA of Schedule 1 have been met.

(3) The requirements of this subregulation are met for a person if the criteria set out in at least 1 of the items of the table are satisfied.

Item	Criterion 1	Criterion 2	Criterion 3	Criterion 4
1	The person makes a valid application for a Protection (Class XA) visa	The person holds: (a) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or (b) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or (c) a Subclass 695 (Return Pending) visa	Nil	Nil

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Regulation 2.07AQ

Item	Criterion 1	Criterion 2	Criterion 3	Criterion 4
2	The person makes a valid application for a protection visa	The person held, but no longer holds, a visa of a kind mentioned in criterion 2 of item 1, or a Subclass 785 (Temporary Protection) visa granted before 9 August 2008, and the visa was not cancelled	The person: (a) has not left Australia; or (b) while holding a visa that permits re-entry to Australia, has left and re-entered Australia	The person does not hold a permanent visa
3	The person holds: (a) a Temporary Safe Haven (Class UJ) visa; or (b) a Temporary (Humanitarian Concern) (Class UO) visa	An offer of a permanent stay in Australia is made to the person by the Australian Government	The person indicates to an authorised officer that he or she accepts the offer of a permanent stay in Australia	The authorised officer endorses, in writing, the person's acceptance of the offer
4	The person is a member of the family unit of a person who is taken to have made a valid application as a result of satisfying the criteria in item 3	An offer of a permanent stay in Australia is made to the person by the Australian Government	The person indicates to an authorised officer that he or she accepts the offer of a permanent stay in Australia	The authorised officer endorses, in writing, the person's acceptance of the offer
5	The circumstance specified in subregulation (3A) exists for the person	An offer of a permanent stay in Australia is made to the person by the Australian Government	The person indicates to an authorised officer that he or she accepts the offer of a permanent stay in Australia	The authorised officer endorses, in writing, the person's acceptance of the offer

(3A) The circumstance specified in this subregulation exists for a person if the Minister has issued a certificate stating that, by reason of the High Court's decision in *Love v Commonwealth; Thoms v Commonwealth* (2020) 270 CLR 152:

(a) if the person is in the migration zone:

(i) the person has been released from immigration detention; or

(ii) the person has not been taken into immigration detention; or

(iii) the person, based on the information known to the Minister at the date of the certificate, will not be taken into immigration detention; or

(b) otherwise—the Minister is satisfied, based on the information known to the Minister at the date of the certificate, that the person could not be detained under section 189 of the Act if the person were in the migration zone.

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(4) If:

(a) the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 1 or 2 of the table in subregulation (3) have been satisfied; and

(b) the application for the Protection (Class XA) visa mentioned in the item was made before 9 August 2008;

the application is taken to have been made on 9 August 2008.

(5) If:

(a) the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 1 or 2 of the table in subregulation (3) have been satisfied; and

(b) the application for the protection visa mentioned in the item is made on or after 9 August 2008;

the application is taken to have been made when the application for the protection visa is made.

(6) If the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 3, 4 or 5 of the table in subregulation (3) have been satisfied, the application is taken to have been made when the authorised officer endorses the person's acceptance of the offer as described in the item.

(7) Subregulation (2) applies whether or not the applicant holds, or held, a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa, a Subclass 451 (Secondary Movement Relocation (Temporary)) visa, a Subclass 695 (Return Pending) visa or a Subclass 785 (Temporary Protection) visa granted before 9 August 2008 that is, or was, subject to a condition mentioned in paragraph 41(2)(a) of the Act relating to the making of applications for other visas.

2.07AR Applications for Superyacht Crew (Temporary) (Class UW) visas

Despite anything in regulation 2.07, an application for a Superyacht Crew (Temporary) (Class UW) visa may be made on behalf of an applicant.

2.07AS Applications for Special Category (Temporary) (Class TY) visas

Despite anything in regulation 2.07, for the purposes of sections 45 and 46 of the Act, an application for a Special Category (Temporary) (Class TY) visa is taken to have been validly made by an applicant, in person, while in immigration clearance, if the applicant:

(a) presents to a clearance officer a New Zealand passport held by the applicant that is in force; and

(b) is not the holder of a permanent visa; and

(c) has submitted an Australia Travel Declaration; and

(d) has provided answers to the health and character questions required by the departmental system that processes such declarations; and

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(e) complies with the requirements under regulation 3.03AB in relation to the provision of the Australia Travel Declaration.

2.08 Application by newborn child

(1) If:

(a) a non-citizen applies for a visa; and

(b) after the application is made, but before it is decided, a child, other than a contributory parent newborn child, is born to the non-citizen;

then:

(c) the child is taken to have applied for a visa of the same class at the time he or she was born; and

(d) the child's application is taken to be combined with the non-citizen's application.

(2) Despite any provision in Schedule 2, a child referred to in subregulation (1):

(a) must satisfy the criteria to be satisfied at the time of decision; and

(b) at the time of decision must satisfy a criterion (if any) applicable at the time of application that an applicant must be sponsored, nominated or proposed.

Note: Regulations 2.07AL and 2.08AA apply in relation to an application by a contributory parent newborn child.

2.08AA Application by contributory parent newborn child

(1) Despite any provision in Schedule 2, a contributory parent newborn child who applies for a Contributory Parent (Temporary) (Class UT) visa or a Contributory Aged Parent (Temporary) (Class UU) visa:

(a) does not have to satisfy the secondary criteria in Schedule 2 that would, but for this subregulation, need to be satisfied at the time of application; and

(b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.

(2) Despite any provision in Schedule 1, a contributory parent newborn child:

(a) who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa or a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and

(b) whose parent has applied for a Contributory Parent (Migrant) (Class CA) visa or a Contributory Aged Parent (Residence) (Class DG) visa, and either:

(i) that application has not been finally determined; or

(ii) the parent has been granted the permanent visa;

is taken to have made a combined application for the permanent visa, mentioned in paragraph (b), with the parent.

(3) For subregulation (2), the contributory parent newborn child is taken to have made the application:

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(a) if the child was in Australia when the temporary visa was granted—on the grant of the temporary visa to the child; or

(b) if the child was outside Australia when the temporary visa was granted—immediately after the child is immigration cleared.

2.08A Addition of certain applicants to certain applications for permanent visas

(1) If:

(a) a person (in this regulation called ***the original applicant***) applies for a permanent visa of a class for which Schedule 1, including Schedule 1 as it applies in relation to a particular class of visa, permits combined applications; and

(b) after the application is made, but before it is decided, the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have:

(i) the spouse or de facto partner; or

(ii) a dependent child;

of the original applicant (the ***additional applicant***) added to the original applicant's application; and

(c) the request includes a statement that the original applicant claims that the additional applicant is:

(i) the spouse or de facto partner; or

(ii) a dependent child;

as the case requires, of the original applicant; and

(d) the additional applicant charge (if any) has been paid in relation to the additional applicant; and

(da) at the time when:

(i) the Minister has received the request; and

(ii) the additional applicant charge (if any) has been paid;

the additional applicant satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class;

then:

(e) the additional applicant is taken to have applied for a visa of the same class; and

(f) the application of the additional applicant:

(i) is taken to have been made on the later of:

(A) the Minister receiving the request; and

(B) the additional applicant charge (if any) being paid; and

(ii) is taken to be combined with the application of the original applicant; and

(iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.

(2) Despite any provision in Schedule 2, the additional applicant:

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(a) must be, at the time when the application is taken to be made under subparagraph (1)(f)(i), a person who satisfies the applicable secondary criteria to be satisfied at the time of application; and

(b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.

(2A) Subregulations (1) and (2) do not apply to an applicant for a Skilled (Residence) (Class VB) visa.

Note 1: Regulations 2.07AL and 2.08AA apply in relation to an application by a contributory parent newborn child.

Note 2: Past amendments of these Regulations may have amended or repealed provisions of Schedule 1 but included transitional provisions by which a former version of Schedule 1 continues to apply in specified cases.

2.08AAA Addition of certain applicants to certain applications for temporary protection visas and safe haven enterprise visas

(1) If:

(a) a person (the ***original applicant***) applies for a visa of either of the following classes:

(i) a Temporary Protection (Class XD) visa;

(ii) a Safe Haven Enterprise (Class XE) visa; and

(c) after the application is made, but before it is decided, the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have a member of the same family unit as the original applicant (the ***additional applicant***) added to the application; and

(d) the request includes a statement that the original applicant claims that the additional applicant is a member of the same family unit as the original applicant; and

(f) the additional applicant charge (if any) has been paid in relation to the additional applicant; and

(g) at the time when:

(i) the Minister has received the request; and

(ii) the additional applicant charge (if any) has been paid;

the additional applicant satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class;

then:

(h) the additional applicant is taken to have applied for a visa of the same class; and

(i) the application of the additional applicant:

(i) is taken to have been made on the later of the day the Minister receives the request and the day the additional applicant charge (if any) is paid; and

(ii) is taken to be combined with the application of the original applicant; and

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(iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.

(2) Despite any provision in Schedule 2, the additional applicant:

(a) must be, at the time the application is taken to be made under subparagraph (1)(i)(i), a person who satisfies the applicable primary criteria to be satisfied at the time of application; and

(b) must satisfy the applicable primary criteria to be satisfied at the time of decision.

2.08B Addition of certain dependent children to certain applications for temporary visas

(1) If:

(a) a person (***the original applicant***) applies for:

(i) an Extended Eligibility (Temporary) (Class TK) visa; or

(iii) a Prospective Marriage (Temporary) (Class TO) visa; or

(vi) a Partner (Provisional) (Class UF) visa; or

(vii) a Partner (Temporary) (Class UK) visa; or

(viii) a Business Skills (Provisional) (Class UR) visa; or

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

(x) a Skilled (Provisional) (Class VC) visa; or

(xi) a Skilled (Provisional) (Class VF) visa; or

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

(xiv) a Skilled Work Regional (Provisional) (Class PS) visa; or

(xv) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; and

(b) the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have a dependent child of the original applicant added to the original applicant's application; and

(ba) the request is received after the application is made but before it is decided; and

(c) the request includes a statement that the original applicant claims that the dependent child is the dependent child of the original applicant; and

(d) the additional applicant charge (if any) and the subsequent temporary application charge (if any) have been paid in relation to the dependent child; and

(daa) at the time when:

(i) the Minister has received the request; and

(ii) the additional applicant charge (if any) and the subsequent temporary application charge (if any) have been paid in relation to the additional applicant;

the dependent child satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class;

then:

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(e) the dependent child is taken to have applied for a visa of the same class; and

(f) the application of the dependent child:

(i) is taken to have been made on the latest of:

(A) the Minister receiving the request; and

(B) the additional applicant charge (if any) being paid; and

(C) the subsequent temporary application charge (if any) being paid; and

(ii) is taken to be combined with the application of the original applicant; and

(iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.

(2) Despite any provision in Schedule 2, the dependent child:

(a) must be, at the time when the application is taken to be made under subparagraph (1)(f)(i), a person who satisfies the applicable secondary criteria to be satisfied at the time of application; and

(b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.

2.08E Certain applicants taken to have applied for Partner (Migrant) (Class BC) visas and Partner (Provisional) (Class UF) visas

(1) For subsection 46(2) of the Act, the Partner (Migrant) (Class BC) visa and the Partner (Provisional) (Class UF) visa are prescribed classes of visa.

(2) If:

(a) a person (the ***applicant***) applies for a Prospective Marriage (Temporary) (Class TO) visa; and

(b) after the application is made, but before it is decided, the applicant marries the person who was specified as the applicant's prospective spouse in the application for that visa; and

(c) the marriage is recognised as valid for the purposes of the Act;

then:

(d) the applicant is taken also to have applied for a Partner (Migrant) (Class BC) visa and a Partner (Provisional) (Class UF) visa on the day Immigration receives notice of the marriage; and

(e) the applications are taken to be validly made.

(3) The amount paid by the applicant as the first instalment of the visa application charge for the Prospective Marriage (Temporary) (Class TO) visa application is taken to be payment of the first instalment of the visa application charge for the Partner (Migrant) (Class BC) visa application.

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2.08F Certain applications for Protection (Class XA) visas taken to be applications for Temporary Protection (Class XD) visas

Conversion regulation

(1) For section 45AA of the Act, despite anything else in the Act, a valid application (a ***pre-conversion application***) for a Protection (Class XA) visa made before the commencement of this regulation by an applicant prescribed by subregulation (2) is, immediately after this regulation starts to apply in relation to the application under subregulation (3):

(a) taken not to be, and never to have been, a valid application for a Protection (Class XA) visa; and

(b) taken to be, and always to have been, a valid application for a Temporary Protection (Class XD) visa, made by the prescribed applicant.

Note 1: As a result, the Minister is required to make a decision on the pre-conversion application as if it were a valid application for a Temporary Protection (Class XD) visa.

Note 2: If the first instalment of visa application charge for the pre-conversion application had been paid before this regulation starts to apply, the first instalment of visa application charge for an application for a Temporary Protection (Class XD) visa (if any) is taken to have been paid. See section 45AA of the Act.

Prescribed applicants

(2) The following are prescribed applicants:

(a) an applicant who holds, or has ever held, any of the following visas:

(i) a Subclass 785 (Temporary Protection) visa granted before 2 December 2013;

(ii) a Temporary Safe Haven (Class UJ) visa;

(iii) a Temporary (Humanitarian Concern) (Class UO) visa;

(b) an applicant who did not hold a visa that was in effect on the applicant's last entry into Australia;

(c) an applicant who is an unauthorised maritime arrival;

(d) an applicant who was not immigration cleared on the applicant's last entry into Australia.

When this regulation starts to apply

(3) This regulation starts to apply in relation to a pre-conversion application immediately after the occurrence of whichever of the following events is applicable to the application:

(a) if, before the commencement of this regulation, the Minister had not made a decision in relation to the pre-conversion application under section 65 of the Act—the commencement of this regulation;

(b) in a case in which the Minister had made such a decision before the commencement of this regulation—one of the following events, if the event occurs on or after the commencement of this regulation:

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(i) the Administrative Appeals Tribunal remits a matter in relation to the pre-conversion application in accordance with paragraph 415(2)(c) of the Act as in force when the matter is remitted;

(ii) the Administrative Appeals Tribunal remits a matter in relation to the pre-conversion application in accordance with paragraph 43(1)(c) of the *Administrative Appeals Tribunal Act 1975* as in force when the matter is remitted;

(iia) the ART remits a matter in relation to the pre-conversion application in accordance with subsection 349(2) of the Act;

(iib) the ART remits a matter in relation to the pre-conversion application in accordance with paragraph 105(c) of the ART Act;

(iii) a court orders the Minister to reconsider the pre-conversion application in accordance with the law;

(iv) a court declares or concludes (with or without formal declaration) that a decision of the Minister in relation to the pre-conversion application is invalid, void or of no effect;

(v) a court quashes a decision of the Minister in relation to the pre-conversion application.

(4) To avoid doubt, for the purposes of subregulation (3), the Minister is taken not to have made a decision in relation to a pre-conversion visa application under section 65 of the Act if, before 16 December 2014:

(a) the Minister had made a decision in relation to the pre-conversion application under section 65 of the Act; and

(b) one of the following events occurred after the Minister made that decision:

(i) the Refugee Review Tribunal remitted a matter in relation to the pre-conversion application in accordance with paragraph 415(2)(c) of the Act as in force when the matter was remitted;

(ii) the Administrative Appeals Tribunal remitted a matter in relation to the pre-conversion application in accordance with paragraph 43(1)(c) of the *Administrative Appeals Tribunal Act 1975* as in force when the matter was remitted;

(iii) a court ordered the Minister to reconsider the pre-conversion application in accordance with the law;

(iv) a court declared or concluded (with or without formal declaration) that a decision of the Minister in relation to the pre-conversion application was invalid, void or of no effect;

(v) a court quashed a decision of the Minister in relation to the pre-conversion application; and

(c) after the occurrence of the event mentioned in paragraph (b), the Minister had not made another decision in relation to the pre-conversion application.

Note: This regulation commenced on 16 December 2014.

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2.08G Certain applications for Subclass 785 (Temporary Protection) visas and Subclass 790 (Safe Haven Enterprise) visas taken to be applications for Resolution of Status (Class CD) visas

(1) For the purposes of section 45AA of the Act, despite anything else in the Act but subject to subregulations (3) and (4) of this regulation, a valid application (a ***pre-conversion application***) for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa made before the TPV/SHEV transition day by an applicant described in column 1 of an item of the following table is, immediately after this regulation starts to apply in relation to the application under column 2 of the item:

(a) taken not to be, and never to have been, a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa, except for the purposes of section 197C of the Act; and

(b) taken to be, and always to have been, a valid application for a Resolution of Status (Class CD) visa, made by the applicant.

Note 1: As a result, the Minister is required to make a decision on the pre-conversion application as if it were a valid application for a Resolution of Status (Class CD) visa.

Note 2: ***TPV/SHEV transition day*** is defined in regulation 1.03.

Conversion of visa applications

	Column 1	Column 2
Item	**Applicants**	**When this regulation starts to apply**
1	An applicant in relation to whom both of the following apply: (a) the applicant held a Subclass 785 (Temporary Protection) visa, or a Subclass 790 (Safe Haven Enterprise) visa, on or before the TPV/SHEV transition day; (b) before the TPV/SHEV transition day, the Minister had not made a decision in relation to the pre-conversion application under section 65 of the Act	On the TPV/SHEV transition day
2	An applicant in relation to whom both of the following apply: (a) the applicant held a Subclass 785 (Temporary Protection) visa, or a Subclass 790 (Safe Haven Enterprise) visa, on or before the TPV/SHEV transition day; (b) before the TPV/SHEV transition day, the Minister had made a decision in relation to the pre-conversion application to refuse to grant the visa under section 65 of the Act	Immediately after a review/court event occurs in relation to the pre-conversion application if that event occurs on or after the TPV/SHEV transition day

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Regulation 2.08G

Conversion of visa applications		
	Column 1	**Column 2**
Item	**Applicants**	**When this regulation starts to apply**
3	An applicant in relation to whom both of the following apply: (a) the applicant does not hold, and has not ever held, a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (c) before the TPV/SHEV transition day, the Minister had not made a decision in relation to the pre-conversion application under section 65 of the Act	When the Minister makes a record, on or after the TPV/SHEV transition day, that the Minister is satisfied: (a) if the pre-conversion application is for a Subclass 785 (Temporary Protection) visa—that the applicant satisfies the criteria for the grant of the Subclass 785 (Temporary Protection) visa; or (b) if the pre-conversion application is for a Subclass 790 (Safe Haven Enterprise) visa—that the applicant satisfies the criteria for the grant of the Subclass 790 (Safe Haven Enterprise) visa
3A	An applicant in relation to whom both of the following apply: (a) the applicant does not hold, and has not ever held, a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (b) before the TPV/SHEV transition day, the Minister had not made a decision in relation to the pre-conversion application under section 65 of the Act	When the Minister makes a record, on or after the TPV/SHEV transition day, that the Minister is satisfied: (a) that the applicant is a member of the same family unit as another person; and (b) that the other person satisfies the criterion mentioned in paragraph 36(2)(a) or (aa) of the Act; and (c) that: (i) if the pre-conversion application is for a Subclass 785 (Temporary Protection) visa—the applicant would satisfy the criteria for the grant of the Subclass 785 (Temporary Protection) visa if it were assumed that the other person held a visa of that kind; or (ii) if the pre-conversion application is for a Subclass 790 (Safe Haven Enterprise) visa—the applicant would satisfy the criteria for the grant of the Subclass 790 (Safe Haven Enterprise) visa if it were assumed that the other person held a visa of that kind

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Conversion of visa applications

	Column 1	Column 2
Item	**Applicants**	**When this regulation starts to apply**
4	An applicant in relation to whom all of the following apply: (a) the applicant does not hold, and has not ever held, a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (c) before the TPV/SHEV transition day, the Minister had made a decision in relation to the pre-conversion application to refuse to grant the visa under section 65 of the Act; (d) on or after the TPV/SHEV transition day, a review/court event occurs in relation to the pre-conversion application	When the Minister makes a record, after the occurrence of the event mentioned in paragraph (d) of column 1, that the Minister is satisfied: (a) if the pre-conversion application is for a Subclass 785 (Temporary Protection) visa—that the applicant satisfies the criteria for the grant of the Subclass 785 (Temporary Protection) visa; or (b) if the pre-conversion application is for a Subclass 790 (Safe Haven Enterprise) visa—that the applicant satisfies the criteria for the grant of the Subclass 790 (Safe Haven Enterprise) visa
5	An applicant in relation to whom all of the following apply: (a) the applicant does not hold, and has not ever held, a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (b) before the TPV/SHEV transition day, the Minister had made a decision in relation to the pre-conversion application to refuse to grant the visa under section 65 of the Act; (c) on or after the TPV/SHEV transition day, a review/court event occurs in relation to the pre-conversion application	When the Minister makes a record, after the review/court event occurs in relation to the pre-conversion application, that the Minister is satisfied: (a) that the applicant is a member of the same family unit as another person; and (b) that the other person satisfies the criterion mentioned in paragraph 36(2)(a) or (aa) of the Act; and (c) that: (i) if the pre-conversion application is for a Subclass 785 (Temporary Protection) visa—the applicant would satisfy the criteria for the grant of the Subclass 785 (Temporary Protection) visa if it were assumed that the other person held a visa of that kind; or (ii) if the pre-conversion application is for a Subclass 790 (Safe Haven Enterprise) visa—the applicant would satisfy the criteria for the grant of the Subclass 790 (Safe Haven Enterprise) visa

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Conversion of visa applications		
	Column 1	**Column 2**
Item	**Applicants**	**When this regulation starts to apply**
		if it were assumed that the other person held a visa of that kind

Note: For column 2 of items 3 to 5, if the Minister is not satisfied that the applicant satisfies the criteria for the grant of the visa, this regulation never starts to apply.

(1A) For the purposes of items 2, 4 and 5 of the table in subregulation (1), a ***review/court event occurs*** in relation to a pre-conversion application if one of the following occurs:

(a) the Immigration Assessment Authority remits a decision in relation to the pre-conversion application in accordance with subsection 473CC(2) of the Act as in force when the matter is remitted;

(b) the Administrative Appeals Tribunal remits a matter in relation to the pre-conversion application in accordance with paragraph 415(2)(c) of the Act as in force when the matter is remitted;

(c) the Administrative Appeals Tribunal remits a matter in relation to the pre-conversion application in accordance with paragraph 43(1)(c) of the *Administrative Appeals Tribunal Act 1975* as in force when the matter is remitted;

(ca) the ART remits a matter in relation to the pre-conversion application in accordance with subsection 349(2) of the Act;

(cb) the ART remits a matter in relation to the pre-conversion application in accordance with paragraph 105(c) of the ART Act;

(d) a court orders the Minister to reconsider the pre-conversion application in accordance with the law;

(e) a court declares or concludes (with or without formal declaration) that a decision of the Minister in relation to the pre-conversion application is invalid, void or of no effect;

(f) a court quashes a decision of the Minister in relation to the pre-conversion application.

(2) To avoid doubt, for the purposes of subregulation (1), the Minister is taken not to have made a decision in relation to a pre-conversion visa application under section 65 of the Act if, before the TPV/SHEV transition day:

(a) the Minister had made a decision in relation to the pre-conversion application under section 65 of the Act; and

(b) one of the following events occurred after the Minister made that decision:

(i) the Immigration Assessment Authority remitted a decision in relation to the pre-conversion application in accordance with subsection 473CC(2) of the Act as in force when the matter was remitted;

(ii) the Administrative Appeals Tribunal remitted a matter in relation to the pre-conversion application in accordance with paragraph 415(2)(c) of the Act as in force when the matter was remitted;

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(iii) the Administrative Appeals Tribunal remitted a matter in relation to the pre-conversion application in accordance with paragraph 43(1)(c) of the *Administrative Appeals Tribunal Act 1975* as in force when the matter was remitted;

(iv) a court ordered the Minister to reconsider the pre-conversion application in accordance with the law;

(v) a court declared or concluded (with or without formal declaration) that a decision of the Minister in relation to the pre-conversion application was invalid, void or of no effect;

(vi) a court quashed a decision of the Minister in relation to the pre-conversion application; and

(c) after the occurrence of the event mentioned in paragraph (b), the Minister had not made another decision in relation to the pre-conversion application.

(3) This regulation does not apply to a pre-conversion application if there are proceedings, in relation to the application, in which:

(a) judgment is reserved by a court as at immediately before the TPV/SHEV transition day; or

(b) judgment has been delivered by a court before the TPV/SHEV transition day.

(4) This regulation does not affect rights or liabilities arising between parties to proceedings, in relation to the application, in which:

(a) judgment is reserved by a court as at immediately before the TPV/SHEV transition day; or

(b) judgment has been delivered by a court before the TPV/SHEV transition day.

2.09 Oral applications for visas

(1) If an item in Schedule 1 authorises oral application for a class of visa by a person in a specified class of persons, a person in that class may apply for a visa of that class by telephone to, or attendance at, an office of Immigration in Australia specified by the Minister in an instrument in writing as an office at which an oral application may be made, but only at a time, or during a period, specified by the Minister in an instrument in writing as a time at which, or period during which, an oral application may be made at that office.

(4) In this regulation:

office of Immigration does not include an office occupied by an officer of Immigration at an airport or a detention centre.

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2.10 Where application must be made

(1) For section 46 of the Act, an application for a visa (not being an Internet application) must be made in accordance with this regulation.

(2) If an application for a visa is made outside Australia, the application must be made:

(a) in accordance with any requirements in:

(i) this Division; or

(ii) the item in Schedule 1 that relates to the visa;

about where to make the application; or

(b) if there are no requirements of that kind—at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia.

Note 1: Schedule 1 explains whether applications for particular visas may be made in Australia, outside Australia, or in or outside Australia.

Note 2: A provision in this Division or in Schedule 1 may also state that an application is taken to have been made at a particular place if specified requirements are met.

(2A) If an application for a visa is made in Australia, the application must be made:

(a) in accordance with any requirements in:

(i) this Division; or

(ii) the item in Schedule 1 that relates to the visa;

about where to make the application; or

(b) if there are no requirements of that kind—at an office of Immigration in Australia.

Note 1: Schedule 1 explains whether applications for particular visas may be made in Australia, outside Australia, or in or outside Australia.

Note 2: A provision in this Division or in Schedule 1 may also state that an application is taken to have been made at a particular place if specified requirements are met.

(3) An unlawful non-citizen who is located by an officer of Immigration may apply for a bridging visa directly to that officer.

Note: Requirements about where the applicant must be when making an Internet application are in Schedule 1.

2.10AA Where application must be made for certain visas

(1) This regulation applies to:

(a) a person who is:

(i) outside Australia; and

(ii) a citizen of, or residing in, a foreign country specified in a legislative instrument made by the Minister for the purposes of this subparagraph; and

(iii) in that foreign country; and

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(b) an application (other than an Internet application) made by the person for a visa that is specified in a legislative instrument made by the Minister for the purposes of this paragraph.

(2) The application must be made by:

(a) posting the application (with the correct pre-paid postage) to a post office box address specified for the visa in a legislative instrument made by the Minister for the purposes of this paragraph; or

(b) having the application delivered by a courier service to an address specified for the visa in a legislative instrument made by the Minister for the purposes of this paragraph.

(3) The application is taken to have been made outside Australia.

2.10A Notice of lodgment of application—person in immigration detention (Bridging E (Class WE) visa)

(1) This regulation applies in the case of an application for a Bridging E (Class WE) visa that is made by a person who is in immigration detention (the ***applicant***).

(2) For section 46 of the Act, the person lodging the application (whether or not the person is the applicant) must give written notice of the application to an officer of Immigration appointed by the Secretary to be a detention review officer in the State or Territory in which the applicant is detained.

2.10B Notice of lodgment of application—person in immigration detention (Bridging F (Class WF) visa)

(1) This regulation applies in the case of an application for a Bridging F (Class WF) visa that is made by a person who is in immigration detention (***the applicant***).

(2) For section 46 of the Act, the person lodging the application (whether or not the person is the applicant) must give written notice of the application to an officer of Immigration appointed by the Secretary to be an authorised officer for this regulation.

2.10C Time of making Internet application

For these Regulations, an Internet application is taken to have been made:

(a) if Australian Eastern Standard Time is in effect in Australia—at the time, identified using Australian Eastern Standard Time, that corresponds to the time at which the Internet application is made; or

(b) if Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory is in effect in Australia—at the time, identified using Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made.

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2.11 Special provisions for certain visa applications that are refused

(1) If:

(a) an application for a visa by a non-citizen made outside Australia (a ***first application***) has been made; and

(b) the first application has been refused; and

(c) it appears to the Minister, on the basis of the information available to the Minister, that, if the non-citizen had applied for a visa of a different class, the visa would be likely to have been granted;

the Minister may invite the non-citizen to make an application (a ***further application***) for a visa of the different class.

(2) An invitation made under subregulation (1) is to be an invitation:

(a) if the first application was for a permanent visa—to make an application for a permanent visa; or

(b) if the first application was for a temporary visa—to make an application for a temporary visa.

(2A) However:

(a) if the first application was for a Prospective Marriage (Temporary) (Class TO) visa, the Minister may invite the applicant to make a further application for both:

(i) a Partner (Provisional) (Class UF) visa; and

(ii) a Partner (Migrant) (Class BC) visa; and

(b) if the first application was for both:

(i) a Partner (Provisional) (Class UF) visa; and

(ii) a Partner (Migrant) (Class BC) visa;

the Minister may invite the applicant to make a further application for a Prospective Marriage (Temporary) (Class TO) visa; and

(c) if the first application was for a Return (Residence) (Class BB) visa, the Minister may invite the applicant to make a further application for a Resident Return (Temporary) (Class TP) visa.

(3) The ART is not to invite a further application under subregulation (1).

(4) The non-citizen must make the further application within 28 days (or, if the Minister in the circumstances of the case so decides, 70 days) after the day on which the non-citizen is notified of the invitation to make that application.

(5) The actual amount that is payable by the applicant by way of the visa application charge in relation to the further application is the amount (if any) by which liability for the visa application charge in relation to the further application exceeds the actual amount of the visa application charge paid on the first application.

(6) If the first instalment of the visa application charge payable in relation to the further application is less than the actual amount paid in relation to the first application, no refund is payable in respect of the difference.

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2.11A Visa applications by unauthorised maritime arrivals

For subparagraph 46A(1)(b)(ii) of the Act, the following kinds of visas are prescribed:

(a) Temporary Safe Haven (Class UJ) visas;
(b) Temporary (Humanitarian Concern) (Class UO) visas;
(c) Subclass 785 visas granted before 2 December 2013;
(d) Safe Haven Enterprise (Class XE) visas.

Note: Section 46A of the Act prevents the making of a valid visa application by an unauthorised maritime arrival who is an unlawful non-citizen or holds a bridging visa or a temporary protection visa, or a temporary visa of a prescribed kind.

2.11B Visa applications by transitory persons

For subparagraph 46B(1)(b)(ii) of the Act, the following kinds of visas are prescribed:

(a) Temporary Safe Haven (Class UJ) visas;
(b) Temporary (Humanitarian Concern) (Class UO) visas;
(c) Subclass 785 visas granted before 2 December 2013;
(d) Safe Haven Enterprise (Class XE) visas.

Note: Section 46B of the Act prevents the making of a valid visa application by a transitory person who is an unlawful non-citizen or holds a bridging visa or a temporary protection visa, or a temporary visa of a prescribed kind.

2.12 Certain non-citizens whose applications refused in Australia (Act, s 48)

For section 48 of the Act the following classes of visas are prescribed:

(a) Partner (Temporary) (Class UK);
(b) Partner (Residence) (Class BS);
(c) protection visas;
(ca) Medical Treatment (Visitor) (Class UB);
(e) Territorial Asylum (Residence) (Class BE);
(f) Border (Temporary) (Class TA);
(g) Special Category (Temporary) (Class TY);
(h) Bridging A (Class WA);
(j) Bridging B (Class WB);
(k) Bridging C (Class WC);
(l) Bridging D (Class WD);
(m) Bridging E (Class WE);
(ma) Bridging F (Class WF);
(mb) Bridging R (Class WR);
(o) Resolution of Status (Class CD);
(p) Child (Residence) (Class BT);
(q) Retirement (Temporary) (Class TQ);
(r) Investor Retirement (Class UY);

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(s) Skilled—Nominated (Permanent) (Class SN);
(t) Skilled Work Regional (Provisional) (Class PS);
(u) Skilled Employer Sponsored Regional (Provisional) (Class PE).

Note: Section 48 of the Act limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused.

2.12AA Refusal or cancellation of visa—prohibition on applying for other visa (Act, s 501E)

For paragraph 501E(2)(b) of the Act, a Bridging R (Class WR) visa is specified.

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Division 2.2A—Visa application charge

2.12C Amount of visa application charge

(1) For subsection 45B(1) of the Act, the visa application charge (if any) in relation to an application for a visa of a class to which an item of Schedule 1 relates is the sum of:

(a) the first instalment (which is payable when the application is made), consisting of the following components:

(i) the base application charge or the additional applicant charge;

(ii) any subsequent temporary application charge;

(iii) any non-Internet application charge; and

(b) the second instalment (which is payable before the grant of the visa).

Note 1: The first instalment may include one or more of the components explained in this regulation.

Note 2: See regulation 5.36 in relation to the countries and currencies in which payment of an instalment of the visa application charge may be made.

(2) For the first instalment of visa application charge, the components mentioned in paragraph (1)(a) that are applicable to a particular application for a visa are worked out as follows:

(a) unless paragraph (b), (c) or (d) applies, the components are:

(i) the base application charge; and

(ii) the subsequent temporary application charge (if any); and

(iii) the non-Internet application charge (if any);

(b) if:

(i) the base application charge for the application is nil; or

(ii) the base application charge for another application, with which the application is combined in a way permitted by Schedule 1, or is sought to be combined in a way permitted by regulation 2.08A or 2.08B, is nil;

no other components are applicable;

(c) if:

(i) the application is combined with another application in a way permitted by Schedule 1, or is sought to be combined with another application in a way permitted by regulation 2.08A or 2.08B; and

(ii) the first instalment (if any) of visa application charge (including the base application charge) has been paid for the other application;

the components are the additional applicant charge (if any) and the subsequent temporary application charge (if any);

(d) if the application is combined with another application in a way permitted by regulation 2.08, 2.08AA or 2.08AAA, no components are applicable.

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Base application charge

(3) For the first instalment of visa application charge, base application charge is payable by an applicant for a visa if the additional applicant charge is not payable in relation to the application.

Note 1: Base application charge and additional applicant charge are alternatives. An applicant does not pay both components for the one application.

Note 2: The amount of base application charge varies according to the visa involved, and is set out in the item of Schedule 1 that applies to the visa.

Additional applicant charge

(4) For the first instalment of visa application charge:

(a) if the application is combined with another application in a way permitted by Schedule 1, additional applicant charge is payable by an applicant for a visa; and

(b) if an application is sought to be combined with another application in a way permitted by regulation 2.08A or 2.08B, additional applicant charge is payable by the applicant whose application is being sought to be combined with the other application.

Note 1: Base application charge and additional applicant charge are alternatives. An applicant does not pay both components for the one application.

Note 2: The amount of additional applicant charge varies according to the visa involved. The amount is set out in:

(a) the item of Schedule 1 that applies to the visa, including Schedule 1 as it applies in relation to a particular class of visa; or

(b) subregulation (4A).

Note 3: For paragraph (b), additional applicant charge must be paid before a person is taken, under regulation 2.08A or 2.08B, to have applied for a visa.

(4A) If the applications referred to in paragraph (4)(b) relate to a visa of a class specified by the Minister in an instrument in writing for this subregulation, the amount of additional applicant charge is the amount specified in the instrument.

Subsequent temporary application charge

(5) Subsequent temporary application charge is payable by an applicant for a visa if:

(a) the visa is specified by the Minister in an instrument in writing for this paragraph; and

(b) the applicant is in Australia at the time of application; and

(c) the applicant holds, or the last substantive visa held by the applicant was, a visa specified by the Minister in an instrument in writing for this paragraph (the ***previous visa***); and

(d) the applicant was in Australia at the time of application for the previous visa; and

(e) the previous visa was not granted:

(i) as the result of an application that was taken, under regulation 2.08, to have been made; or

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(ii) as the result of an application that was taken to have been made by operation of law; or

(iii) by the Minister exercising his or her power under section 195A, 351 or 501J, or repealed section 417, of the Act; or

(iv) without the applicant making an application (unless the application is taken to be made in a way permitted by regulation 2.08B).

(6) The amount of subsequent temporary application charge is $700.

Non-Internet application charge

(7) Non-Internet application charge is payable by an applicant for a visa if:

(a) the visa is specified by the Minister in an instrument in writing for this paragraph; and

(b) these Regulations provide that the application may be made as an Internet application; and

(c) the application is not made as an Internet application; and

(d) the base application charge is payable in relation to the application.

Note: The base application charge and the additional applicant charge are alternatives. The non-Internet application charge is payable if the base application charge is payable.

(8) However, non-Internet application charge is not payable by an applicant for a visa in a circumstance specified by the Minister in an instrument in writing for this subregulation.

(9) The amount of non-Internet application charge is $80.

2.12D Prescribed period for payment of unpaid amount of visa application charge (Act, subsection 64(2))

For the purposes of paragraphs 64(2)(a) and (c) of the Act, the following periods are prescribed as the periods within which an applicant must pay the second instalment of the visa application charge:

(a) if the notice given by the Minister under subsection 64(2) is sent from a place in Australia to an address in Australia—the period beginning on the day on which the applicant is taken to have received notice and ending at the end of the 28th day after that day;

(b) if the notice given by the Minister under subsection 64(2) is sent from:

(i) a place outside Australia to an address in Australia; or

(ii) a place in Australia to an address outside Australia; or

(iii) a place outside Australia to an address outside Australia;

the period beginning on the day on which the applicant is taken to have received notice and ending at the end of the 70th day after that day.

Note: If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

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2.12F Refund of first instalment of visa application charge

(1) The Minister must refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:

(a) either of the following circumstances exists:

(i) a circumstance mentioned in subregulation (2);

(ii) a circumstance specified by the Minister in an instrument in writing for this subparagraph; and

(b) the Minister:

(i) receives a written request for a refund from a person mentioned in subregulation (2A); or

(ii) considers it is reasonable in the circumstances to refund the amount to a person mentioned in subregulation (2A) without receiving a written request for a refund.

(2) For subparagraph (1)(a)(i), each of the following is a circumstance:

(a) the application is unnecessary at the time that it is made;

(b) the application is made because of a mistake made by Immigration;

(c) the applicant dies before a decision is made on the application;

(d) the application is an application made in Australia for a Tourist (Class TR) visa by an applicant who:

(i) satisfies the Minister that the applicant meets the requirements of subclause 676.221(3) of Schedule 2; and

(ii) is granted the further visa referred to in that subclause;

(db) the application is an application made in Australia, on or after 23 March 2013, for a Subclass 600 (Visitor) visa or a Medical Treatment (Visitor) (Class UB) visa by an applicant:

(i) in relation to whom the requirements of subclause 600.611(4), subclause 602.212(7) or clause 602.314 of Schedule 2 have been satisfied; and

(ii) who is granted the visa to which the requirements relate;

(ii) is granted the further visa referred to in that subclause;

(f) the applicant's application for a class of visa mentioned in subregulation (2B) was withdrawn because there was not an approved nomination that identified the applicant;

(g) in relation to an application for a class of visa mentioned in subregulation (2B), the applicant's application was withdrawn because the applicant:

(i) was not required to be identified in an approved nomination; and

(ii) did not have an approved work sponsor;

(h) in relation to an application for a Subclass 408 (Temporary Activity) visa that met the requirement in item 3 of the table in subitem 1237(3) of Schedule 1, the applicant's application was withdrawn because the applicant did not have an approved work sponsor.

(2A) For subparagraph (1)(b)(i), the written request must be from:

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(a) the person who paid the amount (the ***payer***); or
(b) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
(c) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note: See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

(2B) For paragraphs (2)(f) and (g), the classes or subclasses of visa are as follows:
(a) Subclass 407 (Training);
(d) Subclass 457 (Temporary Work (Skilled));
(e) Subclass 488 (Superyacht Crew);
(g) Subclass 416 (Special Program);
(h) Subclass 401 (Temporary Work (Long Stay Activity));
(i) Subclass 402 (Training and Research);
(j) Subclass 420 (Temporary Work (Entertainment));
(k) Subclass 482 (Temporary Skill Shortage).

(3) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
(a) the application was made because of a mistake by the applicant; and
(b) the applicant withdraws the application in writing; and
(c) after the withdrawal, the Minister receives a written request for a refund from:
(i) the person who paid the amount (the ***payer***); or
(ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
(iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

(3A) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
(a) the application is for a Temporary Business Entry (Class UC) visa; and
(b) the applicant withdraws the application because the criterion in paragraph 457.223(4)(aa) of Schedule 2 (as in force before 18 March 2018) cannot be satisfied; and
(c) the applicant withdraws the application in writing; and
(d) after the withdrawal, the Minister receives a written request for a refund from:
(i) the person who paid the amount (the ***payer***); or
(ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
(iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

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(3B) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to a visa application if:

(a) the visa application is for:

(i) a Subclass 186 (Employer Nomination Scheme) visa; or

(ii) a Subclass 187 (Regional Sponsored Migration Scheme) visa; and

(b) the visa application relates to a position nominated in an application (the ***nomination application***) for approval under regulation 5.19; and

(c) the applicant for the visa withdraws the visa application in writing for any of the following reasons:

(i) the nomination application, by mistake, identified the wrong occupation in relation to the position nominated;

(ii) if the nomination application was made before 18 March 2018—the nomination application sought to meet the requirements of subregulation 5.19(3) (as in force before 18 March 2018), when it was more likely that the requirements of subregulation 5.19(4) (as in force before 18 March 2018) would have been met, or vice versa;

(iia) if the nomination application was made on or after 18 March 2018—the nomination application is withdrawn before a decision is made under regulation 5.19 because the nomination application, by mistake, identified the wrong stream;

(iii) after the visa application was made, action was taken against the nominator under section 140K of the Act for a failure to satisfy an applicable sponsorship obligation;

(iv) after the visa application was made, the position ceased to be available to the applicant because the business within which the applicant was, or was to be, employed to work in the position ceased to operate actively and lawfully in Australia;

(v) if the visa application is in the Temporary Residence Transition stream—after the visa application was made but before the nomination application is decided, the applicant ceased to be employed in the position in respect of which the person held a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa;

(vi) if the nomination application is made before 18 March 2018 and the visa application is in the Temporary Residence Transition stream—the applicant did not satisfy the 2-year requirement in sub-subparagraph 5.19(3)(c)(i)(A) or (ii)(C) as in force before 18 March 2018 (whichever is applicable) when the nomination application was made;

(vii) if the nomination application is made on or after 18 March 2018 and the visa application is in the Temporary Residence Transition stream—the applicant did not, when the nomination application was made, satisfy the requirement in paragraph 5.19(5)(e), or in paragraph 5.19(5)(f) or (g) (as applicable);

(viii) if the nomination application was made on or after 12 August 2018—the nomination application is withdrawn in the circumstances specified in subregulation 5.37A(3), (4) or (5); and

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(d) after the withdrawal, the Minister receives a written request for a refund from:
  (i) the person who paid the amount (the ***payer***); or
  (ii) if the payer has died, or the payer has a serious physical or mental incapacity—the payer's legal personal representative; or
  (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*—the trustee of the estate of the payer.

(3C) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to a visa application if:
(a) the visa application is for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
(b) the visa application relates to a nomination of an occupation under subsection 140GB(1) of the Act; and
(c) the applicant for the visa withdraws the visa application in writing for any of the following reasons:
  (i) the nomination, by mistake, identified the wrong occupation;
  (ii) the nomination is withdrawn before a decision is made on the nomination under section 140GB of the Act because the nomination, by mistake, identified the wrong stream;
  (iii) after the visa application was made, action was taken against the nominator under section 140K of the Act for a failure to satisfy an applicable sponsorship obligation;
  (iv) after the visa application was made, the position associated with the nominated occupation ceased to be available to the applicant because the business within which the applicant was, or was to be, employed to work in the position ceased to operate lawfully in Australia;
  (v) the nomination is withdrawn in the circumstances specified in subregulation 2.73C(3), (4), (5) or (6); and
(d) after the withdrawal, the Minister receives a written request for a refund from:
  (i) the person who paid the amount (the ***payer***); or
  (ii) if the payer has died, or the payer has a serious physical or mental incapacity—the payer's legal personal representative; or
  (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*—the trustee of the estate of the payer.

(4) The Minister must not make a refund on the basis that the applicant has died unless the request for the refund is accompanied by satisfactory evidence of the applicant's death.

(5) The Minister must not make a refund to the legal personal representative of a payer who has died unless the request for the refund is accompanied by satisfactory evidence of the payer's death.

(6) A refund under this regulation must be:
(a) paid to the person who made the request for the refund; or:

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(b) if the refund is to be paid under subparagraph (1)(b)(ii)—paid to a person mentioned in subregulation (2A); or

(c) provided to a person mentioned in paragraph (a) or (b) for payment to the applicant's deceased estate.

(7) If:

(a) in the opinion of the Minister, there is no doubt about the identity of the payer; and

(b) the Minister pays the amount of the refund to:

(i) the payer; or

(ii) a person mentioned in paragraph (2A)(b) or (c); or

(iii) a person mentioned in subparagraph (3)(c)(ii) or (iii); or

(iv) a person mentioned in subparagraph (3A)(d)(ii) or (iii); or

(v) a person mentioned in subparagraph (3B)(d)(ii) or (iii); or

(vi) a person mentioned in subparagraph (3C)(d)(ii) or (iii);

a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.

(8) A refund under this regulation may be paid:

(a) in Australian currency; or

(b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency, in that other currency.

(9) If:

(a) an amount (the ***partial amount***) has been refunded under regulation 2.12FA in relation to an application for a visa; and

(b) the Minister must or may, under this regulation, refund an amount paid in relation to the application;

then, despite anything in this regulation, the amount to be refunded under this regulation is to be reduced by an amount equal to the partial amount.

2.12FA Partial refund of first instalment of visa application charge to certain applicants

Refund on request

(1) If:

(a) an amount (the ***paid amount***) has been paid by way of the first instalment of the visa application charge in relation to an application made on or after 1 July 2024 for a Student (Temporary) (Class TU) visa; and

(b) one of the following applies:

(i) the application was made by a person (the ***primary applicant***) seeking to meet the primary criteria for the grant of the visa;

(ii) the application was combined, in a way permitted by Schedule 1, with the application made by the primary applicant (whether the primary applicant's application was made before, on or after 1 July 2024);

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(iii) the application was made by a person who is a member of the family unit of another person (the ***primary visa holder***) who holds a Student (Temporary) (Class TU) visa, having satisfied the primary criteria for that visa; and

(c) the paid amount is more than the amount (the ***old amount***) of the first instalment of the visa application charge that would have been payable in relation to the application if the application had been made on 30 June 2024; and

(d) the Minister receives a written request from a person mentioned in subregulation (2) for a refund of the difference between the paid amount and the old amount; and

(e) the Minister is satisfied that, at the time of the request, the primary applicant or the primary visa holder (as the case may be) held a valid passport issued by a specified country; and

(f) no amount has been refunded under regulation 2.12F in relation to the application;

then the Minister must refund an amount equal to the difference between the paid amount and the old amount.

(2) For the purposes of paragraph (1)(d), the written request must be from:

(a) the person who paid the amount (the ***payer***); or

(b) if the payer has a serious physical or mental incapacity—the payer's legal personal representative; or

(c) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*—the trustee of the estate of the payer.

Note: See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

Making of refunds

(3) The Minister must not make a refund to the legal personal representative of a payer who has died unless the Minister has been given satisfactory evidence of the payer's death.

(4) A refund under this regulation must be:

(a) paid to the person who made the request for the refund; or

(b) provided to a person mentioned in paragraph (a) for payment to the applicant's deceased estate.

(5) If:

(a) in the opinion of the Minister, there is no doubt about the identity of the payer; and

(b) the Minister pays the amount of the refund to:

(i) the payer; or

(ii) a person mentioned in paragraph (2)(b) or (c);

a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.

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(6) A refund under this regulation may be paid:
  (a) in Australian currency; or
  (b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency—in that other currency.

Definition

(7) In this regulation:

specified country means the following:
  (a) Federated States of Micronesia;
  (b) Fiji;
  (c) Kiribati;
  (d) Nauru;
  (e) Palau;
  (f) Papua New Guinea;
  (g) Republic of the Marshall Islands;
  (h) Samoa;
  (i) Solomon Islands;
  (j) Timor-Leste;
  (k) Tonga;
  (l) Tuvalu;
  (m) Vanuatu.

2.12G When payment of second instalment of visa application charge not required

(1) In spite of any other provision of these Regulations, an applicant is not liable to pay the second instalment of the visa application charge in relation to an application for a visa if:
  (a) the applicant withdraws the application before the second instalment is paid; or
  (b) the application, having been finally determined within the meaning of section 11A of the Act, is refused.

(2) For the purpose of this regulation, an application is taken not to have been finally determined if, for any reason, a court remits the application to the Minister to be decided.

2.12H Refund of second instalment of visa application charge

(1) The Minister must refund the amount paid by way of the second instalment of the visa application charge in relation to an application for a visa if:
  (a) any of the circumstances mentioned in subregulation (2) exists; and
  (b) the Minister receives a written request for a refund from:
    (i) the person who paid the amount (the ***payer***); or

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(ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or

(iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note: See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

(2) For paragraph (1)(a), the circumstances are as follows:

(a) the applicant withdraws the application in writing before the application is decided;

(b) the applicant dies before first entering Australia as the holder of the visa;

(c) the application has been finally determined within the meaning of section 11A of the Act and the visa is not granted;

(d) the visa is granted, and later cancelled, before the applicant first enters Australia as the holder of the visa;

(e) the visa is granted, and otherwise ceases, before the applicant first enters Australia as the holder of the visa;

(f) the amount was paid under a provision of Schedule 1 specified in an instrument in writing made by the Minister for this paragraph and, within the period of 12 months starting on the applicant's visa commencement day (within the meaning of the *Immigration (Education) Act 1971*), any of the following events occur:

(i) the applicant dies before commencing a course of English language tuition to which the applicant was entitled under section 4B of that Act;

(ii) the applicant's visa is cancelled before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act;

(iii) the applicant's visa ceases to have effect before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act;

(iv) the obligation of the Commonwealth to the applicant under section 4B of that Act ceases, by operation of paragraph 4A(1)(b) of that Act, before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act.

(2A) However, subparagraph (2)(f)(iii) does not apply if, before the visa ceases to have effect, the Commonwealth's obligation under section 4B of the *Immigration (Education) Act 1971*, in relation to the applicant, has ceased by operation of paragraph 4C(2)(a) or (b) of that Act.

(3) For this regulation, an application is taken not to have been finally determined if, for any reason, a court remits the application to the Minister to be decided.

(4) If the request for a refund is made on the basis that:

(a) the applicant died before first entering Australia as the holder of the visa; or

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(b) the applicant died before commencing a course of English language tuition to which the applicant was entitled under section 4B of the *Immigration (Education) Act 1971*;

the request must be accompanied by satisfactory evidence of the applicant's death.

(5) If the request for the refund is made by the legal personal representative of a payer who has died, the request must be accompanied by satisfactory evidence of the payer's death.

(7) If:

(a) in the opinion of the Minister, there is no doubt about the identity of the payer; and

(b) the Minister pays the amount of the refund to the payer or to a person mentioned in subparagraph (1)(b)(ii) or (iii);

a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.

(8) A refund under this regulation may be paid:

(a) in Australian currency; or

(b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency, in that other currency.

2.12JA Payment of visa application charge for Internet application

(1) The visa application charge in relation to an Internet application must be paid by:

(a) credit card, in accordance with the instructions given to the applicant as part of making the Internet application; or

(b) funds transfer, in accordance with the instructions given to the applicant as part of making the Internet application; or

(c) the PayPal system, in accordance with the instructions given to the applicant as part of making the Internet application.

(2) If the visa application charge is paid in accordance with paragraph (1)(a), the charge is taken not to have been received until the payment has been confirmed by the issuer of the credit card.

(3) If the visa application charge is paid in accordance with paragraph (1)(b), the charge is taken not to have been received until the payment is electronically matched to the applicant's Internet application form.

(4) If the visa application charge is paid in accordance with paragraph (1)(c), the charge is taken not to have been received until the payment has been confirmed by the operator of the PayPal system.

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2.12K Who is the person who pays an instalment of visa application charge

For regulations 2.12F, 2.12FA and 2.12H, the person who pays an amount by way of an instalment of visa application charge in relation to an application for a visa is:

(a) if the payment is made by an agent (whether or not a registered agent within the meaning of Part 3 of the Act) on behalf of the applicant—the applicant; and

(b) in any other case:

(i) if the payment is made by cheque—the drawer of the cheque; and

(ii) if the payment is made by a credit or debit card—the person named on the card; and

(iii) if the payment is made in cash—the person presenting the cash; and

(iv) if the payment is made by bank cheque, bank draft, money order, or other similar instrument:

(A) the person presenting the instrument; or

(B) if that person is not the person named on the instrument as the purchaser of the instrument (the ***purchaser***), the purchaser; and

(v) if the payment is made by the PayPal system—the person whose PayPal account was used for the payment.

2.12L Legal personal representative

For regulations 2.12F, 2.12FA and 2.12H, a person is taken to be the legal personal representative of a payer if:

(a) the person provides satisfactory evidence to the Minister that the person is the legal personal representative of the payer; and

(b) the Minister is satisfied, on the basis of the evidence provided by the person, that the person is the legal personal representative of the payer.

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Division 2.2B—Priority consideration of certain visa applications on request

2.12M Priority consideration of certain visa applications on request

(1) On a request made in accordance with this regulation in relation to a valid application for a visa, the Minister may prioritise the consideration of the application.

(2) An applicant for a visa may make a request under this regulation only if:
  (a) the visa is of a kind specified by the Minister under subregulation (7); and
  (b) the applicant:
    (i) holds a valid passport of a kind specified by the Minister under subregulation (7) in relation to that kind of visa; and
    (ii) meets any other requirements specified by the Minister under subregulation (7) in relation to that kind of visa and that kind of valid passport; and
  (c) the application is made:
    (i) using an approved form specified by the Minister under subregulation (7) in relation to that kind of visa and that kind of valid passport; and
    (ii) in a way specified by the Minister under subregulation (7) in relation to that kind of visa, that kind of valid passport and that approved form.

(3) The request must be made:
  (a) as permitted by subregulation (4); or
  (b) in a form approved by the Minister under regulation 1.18 for the purposes of this paragraph.

(4) If the approved form for the application enables the making of the request, the request may be made as enabled by the approved form.

(5) A request made as mentioned in paragraph (3)(b) must be made:
  (a) using an approved form specified by the Minister under subregulation (7) in relation to the kind of visa applied for and the kind of valid passport held by the applicant; and
  (b) in a way specified by the Minister under subregulation (7) in relation to that kind of visa, that kind of valid passport and that approved form.

(6) The fee for the request prescribed under regulation 2.12N must be paid in accordance with that regulation.

(7) The Minister may, by legislative instrument, specify matters for subregulations (2) and (5).

(8) The legislative instrument may specify different matters for different classes of applicant.

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2.12N Fee for request for priority consideration of visa applications

(1) The fee for a request for priority consideration of a visa application under regulation 2.12M is $1 000.

(2) The fee must be paid to the Commonwealth at, or before, the time the request is made.

(3) If the request is made on the internet (whether the request is made in the approved form for the application or made separately), the fee must be paid by:
  (a) credit card, in accordance with the instructions given to the applicant as part of making the request; or
  (b) funds transfer, in accordance with the instructions given to the applicant as part of making the request; or
  (c) the Paypal system, in accordance with the instructions given to the applicant as part of making the request.

2.12P Refund of fee for request for priority consideration of visa applications

(1) The Minister must refund the fee for a request for priority consideration of a visa application if the Minister decides, under regulation 2.12F, to refund the visa application charge paid in relation to that application.

(2) The refund under this regulation must be paid to the person who paid the fee.

(3) A refund under this regulation may be paid:
  (a) in Australian currency; or
  (b) if the amount of the fee in respect of which the refund is being paid was paid in another currency, in that other currency.

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Division 2.3—Communication between applicant and Minister

2.13 Communication with Minister

(1) For the purposes of section 52 of the Act (which deals with the way in which an applicant or interested person must communicate with the Minister), an applicant or interested person must communicate with the Minister about a visa application in the way provided by this regulation.

(2) Except as provided by subregulation (3), the communication must be in writing.

(3) The communication may be oral if it is:
  (a) a communication about an application for a bridging visa; or
  (b) an enquiry about the stage reached in the consideration of a visa application; or
  (c) an oral application; or
  (d) a communication about an application for an Electronic Travel Authority (Class UD) visa.

(4) A written communication must include:
  (a) the applicant's full name, as set out in the application; and
  (b) the applicant's date of birth; and
  (c) one of the following:
    (i) the applicant's client number;
    (ii) the Immigration file number;
    (iii) the number of the receipt issued by Immigration when the visa application was made; and
  (d) if the application was made outside Australia, the name of the office at which the application was given to the Minister.

(5) Subject to subregulation (6), a document accompanying a written communication must be:
  (a) the original; or
  (b) a copy of the original certified in writing to be a true copy by:
    (i) a Justice of the Peace; or
    (ii) a Commissioner for Declarations; or
    (iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or
    (iv) a registered migration agent whose registration is not:
      (A) suspended; or
      (B) subject to a caution; or
    (v) if the copy is certified in a place outside Australia:
      (A) a registered migration agent mentioned in subparagraph (iv); or

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(B) a person who is the equivalent of a Justice of the Peace or Commissioner for Declarations in that place.

Note: Section 303 of the Act provides that the Migration Agents Registration Authority may suspend the registration of a registered migration agent or caution him or her. If a registered migration agent is subject to a suspension of his or her registration, or a caution, particulars of the suspension or caution are shown on the Register of Migration Agents: subsection 287(2) of the Act. These particulars must be removed once the suspension or caution is no longer in effect: subsection 287(5) of the Act.

(6) If an applicant (other than an applicant for a Visitor (Class TV) visa) or interested person is required or permitted to produce a document in connection with the visa application, the document and the written communication that accompanies it may be in the form of an electronic communication only if:

(a) the document is in a class of documents specified in a legislative instrument made by the Minister as documents that may be sent by electronic communication; or

(b) the Minister has permitted the applicant or interested person to send the document by electronic communication.

(7) For subregulation (6), if the Minister requires an applicant or interested person to give the Minister the original of a document that has already been given by electronic communication:

(a) the giving of the original, otherwise than by electronic communication, is a prescribed way of communication; and

(b) subregulation (5) applies to the original of the document.

(8) An applicant for a Visitor (Class TV) visa must communicate with the Minister about the application:

(a) by electronic communication; or

(b) in another form permitted by the Minister.

Note: This regulation is subject to sections 56 and 58 of the Act, which provide that the Minister may specify the way in which additional information or comments about an application may be given by an applicant. If the Minister specifies a way in which further information or comments must be given for the purposes of either of those sections, the information or comments must be given in that way. Regulation 2.13 then does not apply.

2.14 Where written communication must be sent

For the purposes of section 52 of the Act (which deals with the way in which an applicant or interested person must communicate with the Minister), a written communication to the Minister about an application must be sent to or left at:

(a) the office at which the application was given to the Minister; or

(b) if the Minister has notified the applicant in writing of another office in substitution for that office—that other office.

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Regulation 2.15

2.15 Response to invitation to give additional information or comments—prescribed periods

(1) For the purposes of subsection 58(2) of the Act (which deals with invitations to give additional information or comments), and subject to subregulation (2), the prescribed period for giving additional information or comments in response to an invitation is:

(a) in the case of an application for a substantive visa that was made by an applicant who is in immigration detention—5 days after the applicant is notified of the invitation; or

(b) in the case of an application made by a person who is in Australia, other than a person referred to in paragraph (a):

(i) if the invitation is given at an interview—7 days after the interview; or

(ia) if the invitation is given in a telephone conversation—7 days after the invitation is given; or

(ii) if the invitation is given otherwise than in a way mentioned in paragraph (i) or (ia):

(A) in the case of an application for a Tourist (Class TR) visa, a Subclass 600 (Visitor) visa or a Medical Treatment (Visitor) (Class UB) visa—7 days after the applicant is notified of the invitation; or

(C) in any other case—28 days after the applicant is notified of the invitation; or

(d) in the case of an application made by an applicant for a Visitor (Class TV) visa:

(i) 7 days after the applicant is notified of the invitation; or

(ii) if the Minister so decides in the circumstances of the case—70 days after the applicant is notified of the invitation.

(2) Subregulation (1) does not apply to a request for information or comments to be obtained from a third party regarding the following matters:

(a) the applicant's health;

(b) the satisfaction by the applicant of public interest criteria;

(c) the satisfaction of criteria relating to the applicant's capacity to communicate in English;

(d) assessment of the applicant's skills or qualifications.

(3) For the purposes of paragraph 58(3)(b) of the Act (which deals with the time in which an interview is to take place), the prescribed period is:

(a) in the case of an application for a substantive visa that was made by an applicant who is in immigration detention—5 days after the applicant is notified of the invitation; or

(b) in the case of an application made by an applicant who is in Australia, other than a person referred to in paragraph (a):

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(i) in the case of an application for a Tourist (Class TR) visa, a Subclass 600 (Visitor) visa or a Medical Treatment (Visitor) (Class UB) visa—7 days after the applicant is notified of the invitation; or

(iii) in any other case—28 days after the applicant is notified of the invitation; or

(c) in the case of an application made by an applicant who is not in Australia:

(i) 28 days; or

(ii) if the Minister so decides in the circumstances of the case—70 days;

after the applicant is notified of the invitation.

(4) For the purposes of subsection 58(4) or (5) of the Act (dealing with extending the period to respond to an invitation or attend for interview), the prescribed further period is:

(a) if the applicant is in immigration detention—5 days; or

(b) if the applicant is in Australia but is not in immigration detention—7 days; or

(c) if the applicant is not in Australia:

(i) 7 days; or

(ii) if the Minister so decides in the circumstances of the case—28 days;

after the applicant is notified of the invitation.

Note: If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

2.16 Notification of decision on visa application

(1) For subsections 66(1) and 501G(3) of the Act (which deal with giving notice of decisions), this regulation sets out the way of notifying a person of a decision to grant or refuse to grant a visa.

Grant of visa

(2) If the visa is a bridging visa granted at the same time as a substantive visa, the Minister must notify the applicant of the grant of the bridging visa by notifying the applicant of the grant of the substantive visa.

(2A) If the visa:

(a) is a special category visa; and

(b) has been granted using an authorised system in accordance with an arrangement made under subsection 495A(1) of the Act;

the Minister must notify the applicant of the grant of the visa by a general notice in immigration clearance.

(2D) If neither subregulation (2) nor subregulation (2A) applies, the Minister must notify the applicant of the grant of the visa by:

(a) telling the applicant orally that the visa has been granted; or

(b) notifying the applicant by one of the methods specified in section 494B of the Act.

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Note: If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

Refusal to grant visa

(3) The Minister must notify an applicant of a decision to refuse to grant a visa by one of the methods specified in section 494B of the Act.

Note: If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

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Division 2.5—Bridging visas

2.20 Eligible non-citizen (Act, s 72)

(1) For the purposes of the definition of ***eligible non-citizen*** in section 72 of the Act (which deals with persons eligible to be granted a bridging visa), the classes of persons described in subregulations (6) to (12) and (14) to (18) are prescribed.

(6) This subregulation applies to a non-citizen who:
  (a) either:
    (i) bypassed immigration clearance on or after 1 September 1994 and has not subsequently been granted a substantive visa; or
    (ii) entered Australia without authority before 1 September 1994 and has not subsequently been granted a substantive visa or entry permit; and
  (d) has not come to the notice of Immigration as an illegal entrant or an unlawful non-citizen within 45 days of entering Australia.

(6A) This subregulation applies to a non-citizen who:
  (a) last held a student visa that was cancelled under section 137J of the Act; and
  (b) has been refused immigration clearance.

(7) This subregulation applies to a non-citizen:
  (a) who:
    (i) was refused immigration clearance; or
    (ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and
  (b) if:
    (i) the non-citizen made a protection visa application that is not finally determined; or
    (ii) the non-citizen applied for judicial review of a decision to refuse a protection visa; or
    (iii) the Minister has applied for judicial review of a decision in relation to the non-citizen's protection visa application; and
  (c) who has not turned 18; and
  (d) in respect of whom a child welfare authority of a State or Territory has certified that release from detention is in the best interests of the non-citizen; and
  (e) in respect of whom the Minister is satisfied that:
    (i) arrangements have been made between the non-citizen and an Australian citizen, Australian permanent resident or eligible New Zealand citizen for the care and welfare of the non-citizen; and
    (ii) those arrangements are in the best interests of the non-citizen; and

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(iii) the grant of a visa to the non-citizen would not prejudice the rights and interests of any person who has, or may reasonably be expected to have, custody or guardianship of, or access to, the non-citizen.

(8) This subregulation applies to a non-citizen:

(a) who:

(i) was refused immigration clearance; or

(ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and

(b) if:

(i) the non-citizen made a protection visa application that is not finally determined; or

(ii) the non-citizen applied for judicial review of a decision to refuse a protection visa; or

(iii) the Minister has applied for judicial review of a decision in relation to the non-citizen's protection visa application; and

(c) who has turned 75; and

(d) in respect of whom the Minister is satisfied that adequate arrangements have been made for his or her support in the community.

(9) This subregulation applies to a non-citizen:

(a) who:

(i) was refused immigration clearance; or

(ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and

(b) if:

(i) the non-citizen made a protection visa application that is not finally determined; or

(ii) the non-citizen applied for judicial review of a decision to refuse a protection visa; or

(iii) the Minister has applied for judicial review of a decision in relation to the non-citizen's protection visa application; and

(c) who has a special need (based on health or previous experience of torture or trauma) in respect of which a medical specialist appointed by Immigration has certified that the non-citizen cannot properly be cared for in a detention environment; and

(d) in respect of whom the Minister is satisfied that adequate arrangements have been made for his or her support in the community.

(10) This subregulation applies to a non-citizen:

(a) who:

(i) was refused immigration clearance; or

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(ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and

(b) if:

(i) the non-citizen made a protection visa application that is not finally determined; or

(ii) the non-citizen applied for judicial review of a decision to refuse a protection visa; or

(iii) the Minister has applied for judicial review of a decision in relation to the non-citizen's substantive visa application; and

(c) who is the spouse or de facto partner of an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and

(d) in relation to whom the Minister is satisfied that the non-citizen's relationship with that Australian citizen, Australian permanent resident or eligible New Zealand citizen is genuine and continuing; and

(e) who is nominated by that Australian citizen, Australian permanent resident or eligible New Zealand citizen.

(11) This subregulation applies to a non-citizen who is a member of the family unit of a non-citizen to whom subregulation (10) applies.

(11A) This subregulation applies to a non-citizen if:

(a) the non-citizen is an unauthorised maritime arrival because of subsection 5AA(1A) of the Act (which is about a non-citizen born in the migration zone with a parent who is at the time of the birth an unauthorised maritime arrival because of subsection 5AA(1) of the Act); and

(b) a parent of the non-citizen is or was an eligible non-citizen.

Note 1: A non-citizen born on or after the day this subregulation commences becomes an eligible non-citizen because of this subregulation:

(a) at birth, if at least one of his or her parents is an eligible non-citizen then or had been an eligible non-citizen before then; or

(b) at the time after birth when at least one of the non-citizen's parents first becomes an eligible non-citizen, if none of the non-citizen's parents was an eligible non-citizen before that time.

Note 2: A non-citizen who was born before the day this subregulation commences becomes an eligible non-citizen because of this subregulation:

(a) on that day, if at least one of his or her parents is an eligible non-citizen then or had been an eligible non-citizen before then; or

(b) at the time after that day when at least one of the non-citizen's parents first becomes an eligible non-citizen, if none of the non-citizen's parents was an eligible non-citizen before that time.

(12) This subregulation applies to a non-citizen if:

(a) the non-citizen is in immigration detention; and

(b) the Minister is satisfied that the non-citizen's removal from Australia is not reasonably practicable at that time; and

(c) the Minister is satisfied that the non-citizen will do everything possible to facilitate the non-citizen's removal from Australia; and

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(e) any visa applications made by the non-citizen, other than an application made following the exercise of the Minister's power under section 48B of the Act, have been finally determined.

(13) For paragraph (12)(b), a non-citizen's removal from Australia is not to be taken to be not reasonably practicable only because the non-citizen is a party to proceedings in a court or tribunal related to an issue in connection with a visa.

(14) This subregulation applies to:

(a) a non-citizen:

(i) who is outside Australia; and

(ii) in relation to whom an officer of:

(A) the Australian Federal Police; or

(B) a police force of a State or Territory; or

(C) the office of the Director of Public Prosecutions of the Commonwealth, a State or a Territory; or

(D) a body of the Commonwealth, a State or a Territory that has functions similar to those of an office of a Director of Public Prosecutions;

has told Immigration in writing that:

(E) the non-citizen has been identified as a suspected victim of human trafficking, slavery or slavery-like practices; and

(F) suitable arrangements have been made for the care, safety and welfare of the non-citizen in Australia for the proposed period of the bridging visa; and

(b) a non-citizen (a ***family member***):

(i) who is outside Australia; and

(ii) who is a member of the immediate family of a non-citizen mentioned in paragraph (a); and

(iii) in relation to whom the Minister has been told in writing, by an officer of the authority that told Immigration for the purposes of paragraph (a), that suitable arrangements have been made for the care, safety and welfare of the family member in Australia for the proposed period of the bridging visa.

(15) This subregulation applies to:

(a) a non-citizen:

(i) who is in Australia; and

(ii) is the subject of a valid criminal justice stay certificate under Division 4 of Part 2 of the Act or an assistance notice that has not been revoked; and

(iii) whom the Minister is satisfied needs to travel outside Australia for compelling and compassionate reasons; and

(iv) in relation to whom an officer of:

(A) the Australian Federal Police; or

(B) a police force of a State or Territory; or

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(C) the office of the Director of Public Prosecutions of the Commonwealth, a State or a Territory; or

(D) a body of the Commonwealth, a State or a Territory that has functions similar to those of an office of a Director of Public Prosecutions;

has told Immigration in writing that suitable arrangements have been made for the care, safety and welfare of the non-citizen in Australia for the proposed period of the bridging visa; and

(b) a non-citizen (a ***family member***):

(i) who is a member of the immediate family of a non-citizen mentioned in paragraph (a); and

(ii) in relation to whom the Minister has been told in writing, by an officer of the authority that told Immigration for the purposes of subparagraph (a)(iv), that suitable arrangements have been made for the care, safety and welfare of the family member in Australia for the proposed period of the bridging visa.

(16) This subregulation applies to a non-citizen:

(a) who held an enforcement visa that has ceased to be in effect; and

(b) who is an unlawful non-citizen; and

(d) who is in criminal detention.

(17) This subregulation applies to a non-citizen if:

(a) the non-citizen is an unlawful non-citizen; and

(b) section 195A of the Act is not available to the Minister in relation to the grant of a visa to the non-citizen; and

(c) the Minister is satisfied that the non-citizen's removal from Australia is not reasonably practicable at that time.

(18) This subregulation applies to a non-citizen if there is no real prospect of the removal of the non-citizen from Australia becoming practicable in the reasonably foreseeable future.

2.20A Applications for Bridging R (Class WR) visas

(1) For subsection 46(2) of the Act, a Bridging R (Class WR) visa is a prescribed class of visa.

(2) An application for a Bridging R (Class WR) visa is taken to have been validly made by a person if:

(a) the person has been given an invitation in writing by the Minister, by one of the methods specified in section 494B of the Act, to apply for the visa; and

(b) the person indicates in writing to Immigration, not later than 7 days after the person is taken to have received that invitation, that he or she accepts the invitation.

Note 1: See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

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Note 2: The Minister must not give a person an invitation, for the purposes of paragraph (a) of this subregulation, while a community safety order made in relation to the person is in force (see paragraph 76AA(7)(a) of the Act).

2.20B Applications for Bridging F (Class WF) visas

(1) For subsection 46(2) of the Act, a Bridging F (Class WF) visa is a prescribed class of visa.

(2) Despite regulation 2.07 and Schedule 1, and as an alternative to item 1306 of Schedule 1, an application for a Bridging F (Class WF) visa is taken to have been validly made by a non-citizen to whom subregulation 2.20(14) applies, or a non-citizen to whom subregulation 2.20(15) applies regardless of whether the non-citizen has been immigration cleared, if:

(a) the non-citizen has been given an invitation in writing by the Minister, by one of the methods specified in section 494B of the Act, to apply for the visa; and

(b) the non-citizen indicates in writing to Immigration, not later than 7 days after the non-citizen is taken to have received that invitation, that he or she accepts the invitation.

Note: See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

2.21 Most beneficial bridging visas (Act, s 68(4)(b)(ii))

(1) For the purposes of subparagraph 68(4)(b)(ii) of the Act (which deals with the order in which bridging visas are reactivated), if a non-citizen holds more than 1 bridging visa, the bridging visa that is the most beneficial is to be determined as set out in this regulation.

(2) The order of classes from most beneficial to least beneficial is:

(a) Bridging B (Class WB) visa;

(b) Bridging A (Class WA) visa;

(c) Bridging C (Class WC) visa;

(d) Bridging D (Class WD) visa;

(da) Bridging R (Class WR) visa;

(e) Bridging E (Class WE) visa;

(f) Bridging F (Class WF) visa.

(3) A bridging visa of Class WA, WB or WC that confers an unlimited right to work is taken to be more beneficial than another bridging visa of the same class that confers a limited right to work, and a bridging visa of one of those classes that confers a limited right to work is taken to be more beneficial than one of the same class that confers no right to work.

(4) A bridging visa of Class WA, WB or WC is taken to be more beneficial than another bridging visa of the same class that is subject to the same work conditions if the first-mentioned visa was granted before the second-mentioned visa.

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(5) If a non-citizen holds 2 or more Bridging E visas, the one that is granted later or latest is taken to be the more or most beneficial.

2.21A Grant of Bridging A (Class WA) visas without application

(1) This regulation applies to a person:
  (a) who is in Australia, but not in immigration clearance; and
  (b) whose application for a Spouse (Migrant) (Class BC) visa, a Partner (Migrant) (Class BC) visa or an Interdependency (Migrant) (Class BI) visa was withdrawn, or refused (except under section 501, 501A or 501B of the Act), when the person was in Australia; and
  (c) who was, immediately before that withdrawal or refusal, the holder of a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa; and
  (d) who has not already been granted a visa under this regulation in relation to the withdrawal or refusal.

(2) This regulation also applies to a person:
  (a) who is in Australia, but not in immigration clearance; and
  (b) whose application for an Aged Parent (Residence) (Class BP) visa was withdrawn:
    (i) while the person was in Australia; and
    (ii) at the same time as the person applied for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa; and
  (c) who was, immediately before that withdrawal, the holder of a Subclass 010 (Bridging A) visa or a Subclass 020 (Bridging B) visa that was granted in association with the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b); and
  (d) who does not hold a substantive visa; and
  (e) who has not already been granted a Subclass 010 (Bridging A) visa under this regulation in relation to:
    (i) the withdrawal of the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b); and
    (ii) the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b).

(3) This regulation also applies to a person:
  (a) who is in Australia, but not in immigration clearance; and
  (b) whose application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa was withdrawn:
    (i) while the person was in Australia; and
    (ii) at the same time as the person applied for an Aged Parent (Residence) (Class BP) visa; and

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(c) who was, immediately before that withdrawal, the holder of a Subclass 010 (Bridging A) visa or a Subclass 020 (Bridging B) visa that was granted in association with the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b); and

(d) who does not hold a substantive visa; and

(e) who has not already been granted a Subclass 010 (Bridging A) visa under this regulation in relation to:

(i) the withdrawal of the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b); and

(ii) the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b).

(4) Despite Schedule 1, the Minister must grant a Bridging A (Class WA) visa in relation to the person mentioned in subregulation (1), (2) or (3).

2.21B Grant of Bridging A (Class WA), Bridging C (Class WC) and Bridging E (Class WE) visas without application

(1) This regulation applies if a non-citizen who is in Australia, but not in immigration clearance, has made:

(a) a valid application for a visa on form 601E, form 48ME, form 1419 or form 1419 (Internet); or

(b) a valid oral application for a Tourist (Class TR) visa or a Subclass 600 (Visitor) visa; or

(c) a valid application under regulation 2.07AK; or

(d) a valid application for a Refugee and Humanitarian (Class XB) visa;

and the application has not been finally determined.

(2) Despite anything in Schedule 1, the Minister may grant the non-citizen a Bridging A (Class WA) visa, a Bridging C (Class WC) visa or a Bridging E (Class WE) visa if the Minister is satisfied that:

(a) at the time of decision, the non-citizen meets:

(i) the criteria to be satisfied by an applicant for the visa at the time of application; and

(ii) the criteria to be satisfied by an applicant for the visa at the time of decision; and

(b) the circumstances applicable to the grant exist in relation to the non-citizen.

2.22 Invalid application for substantive visa

(1) Subject to subregulation (2), a non-citizen is taken to have applied for a Bridging D (Class WD) visa if:

(a) the non-citizen is in Australia but is not in immigration or criminal detention; and

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(b) he or she applies for a substantive visa of a class that may be granted in Australia; and

(c) the application:

(i) is given to the Minister in a way other than by personal attendance at an office of Immigration; and

(ii) is invalid as an application for a substantive visa of that class; and

(d) the invalidity of the application is not by reason of its purporting to have been made contrary to section 48 or 48A of the Act (whether or not the Minister has made a determination under subsection 48B(1) of the Act in relation to the application or action has been taken by any person to seek the making of such a determination).

(2) A reference in subregulation (1) to an application does not include the following:

(a) an oral application, or an oral communication that purports to be an oral application;

(b) an Internet application, or an electronic communication that purports to be an Internet application.

2.23 Further application for bridging visa (Act, s 74)

For the purposes of subsection 74(2) of the Act (which deals with a further application for a bridging visa), the prescribed circumstances are that the Minister is satisfied that, although the non-citizen has not made a further application for a Bridging E (Class WE) visa after being refused a visa of that class, the non-citizen now satisfies the criteria for the grant of a visa of that class.

2.24 Eligible non-citizen in immigration detention

(1) For paragraph 75(1)(a) of the Act (which deals with the class of bridging visa that may be granted to a non-citizen in immigration detention), the prescribed classes of bridging visa are:

(a) Bridging E (Class WE) visa; and

(b) Bridging F (Class WF) visa.

(2) For a Bridging E (Class WE) visa:

(a) if the applicant is an eligible non-citizen of the kind mentioned in subregulation 2.20(7), (8), (9), (10) or (11), the subclass to be granted is a Subclass 051 Bridging (Protection Visa Applicant) visa; and

(b) if paragraph (a) does not apply, the subclass to be granted is a Subclass 050 Bridging (General) visa.

(3) For paragraph 75(1)(b) of the Act (which deals with the time in which the Minister must make a decision on a bridging visa application), if the application is for a Bridging E (Class WE) visa, each item in the table sets out a period for the circumstances mentioned in the item.

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Item	Circumstances	Period
1	The application is made by a non-citizen who has been immigration cleared An officer appointed under subregulation 2.10A(2) as a detention review officer for the State or Territory in which the applicant is detained (a ***detention review officer***) has signed a declaration, within 2 working days after the application is made, that the detention review officer believes that the applicant may not pass the character test under subsection 501 (6) of the Act	90 days
2	The application is made by a non-citizen who has been immigration cleared A detention review officer has not signed a declaration mentioned in item 1 within 2 working days after the application is made	2 working days
3	The application is made by a non-citizen who is an eligible non-citizen mentioned in subregulation 2.20(6) A detention review officer has signed a declaration, within 2 working days after the application is made, that the detention review officer believes that the applicant may not pass the character test under subsection 501(6) of the Act	90 days
4	The application is made by a non-citizen who is an eligible non-citizen mentioned in subregulation 2.20(6) A detention review officer has not signed a declaration mentioned in item 3 within 2 working days after the application is made	2 working days
5	The applicant is not described in items 1 to 4 A detention review officer has signed a declaration, within 28 days after the application is made, that the detention review officer believes that the applicant may not pass the character test under subsection 501(6) of the Act	90 days
6	The applicant is not described in items 1 to 4 A detention review officer has not signed a declaration mentioned in item 5 within 28 days after the application is made	28 days

(4) For paragraph 75(1)(b) of the Act (which deals with the time in which the Minister must make a decision on a bridging visa application), if the application is for a Bridging F (Class WF) visa, each item in the table sets out a period for the circumstances mentioned in the item.

Item	Circumstances	Period
1	The application is made by a non-citizen who has been immigration cleared	2 working days
2	The application is made by a non-citizen who is an eligible non-citizen referred to in subregulation 2.20(6)	2 working days
3	The applicant is not described in item 1 or 2	28 days

Note: The prescribed conditions for the purposes of section 75 of the Act are set out in:
(a) clause 050.612 of Schedule 2 (for a Subclass 050—Bridging (General) visa); and
(b) clause 051.611 of Schedule 2 (for a Subclass 051—Bridging (Protection Visa Applicant) visa); and
(c) clause 060.611 of Schedule 2 (for a Subclass 060—Bridging F visa).

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2.25 Grant of Bridging E (Class WE) visas without application

(1) This regulation applies to:
  (a) a non-citizen who is in criminal detention; or
  (b) a non-citizen who:
    (i) is unwilling or unable to make a valid application for a Bridging E (Class WE) visa; and
    (ii) is not barred from making a valid application for a Bridging E (Class WE) visa by a provision in the Act or these Regulations, other than in item 1305 of Schedule 1.

(2) Despite anything in Schedule 1, the Minister may grant the non-citizen a Bridging E (Class WE) visa if the Minister is satisfied that, at the time of decision:
  (a) the non-citizen satisfies the criteria set out in clauses 050.211, 050.212, 050.222, 050.223, 050.224 and 050.411 of Schedule 2; or
  (b) the non-citizen satisfies the criteria set out in clauses 051.211, 051.212, 051.213, 051.221 and 051.411 of Schedule 2.

2.25AA Grant of Bridging R (Class WR) visa without application

(1) This regulation applies to an eligible non-citizen if:
  (a) the eligible non-citizen is an unlawful non-citizen; and
  (b) section 195A of the Act is not available to the Minister in relation to the grant of a visa to the eligible non-citizen.

(2) Despite anything in Schedule 1 and Divisions 070.2 to 070.4 of Part 070 of Schedule 2, the Minister may grant the eligible non-citizen a Bridging R (Class WR) visa if the Minister is satisfied that, at the time of decision, the eligible non-citizen's removal from Australia is not reasonably practicable.

Note 1: See Divisions 070.5 and 070.6 of Part 070 of Schedule 2 for when the visa is in effect and the conditions to which it is subject.

Note 2: The Minister must not grant the eligible non-citizen a visa under this subregulation while a community safety order made in relation to the non-citizen is in force (see paragraph 76AA(7)(b) of the Act).

2.25AB Grant of Bridging R (Class WR) visas to certain non-citizens without application

(1) This regulation applies to a non-citizen who is an eligible non-citizen under subregulation 2.20(18).

(2) Despite anything in Schedule 1 and Divisions 070.2 to 070.4 of Part 070 of Schedule 2, the Minister may grant the non-citizen a Bridging R (Class WR) visa if the Minister is satisfied that, at the time of decision, the non-citizen does not hold a substantive visa, a criminal justice visa or an enforcement visa.

Note 1: See Divisions 070.5 and 070.6 of Part 070 of Schedule 2 for when the visa is in effect and the conditions to which it is subject.

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Note 2: The Minister must not grant the non-citizen a visa under this subregulation while a community safety order made in relation to the non-citizen is in force (see paragraph 76AA(7)(b) of the Act).

2.25AC Conditions not engaging offence relating to mandatory conditions

For the purposes of paragraph (b) of the definition of ***monitoring condition*** in subsection 76B(4) of the Act, the following conditions are prescribed:

(aa) condition 8612;

(ab) condition 8616;

(a) condition 8617;

(b) condition 8618;

(d) condition 8621.

2.25AD Matters prescribed for the purposes of section 76E of the Act

(1) For the purposes of paragraph 76E(1)(a) of the Act, the following conditions are prescribed:

(a) condition 8617;

(b) condition 8618;

(c) condition 8620;

(d) condition 8621.

(2) For the purposes of subsection 76E(4) of the Act, regulation 2.25AB is prescribed.

2.25AE Period for which certain conditions are imposed on Subclass 070 (Bridging (Removal Pending)) visa

(1) If one or more of the following conditions are imposed on a Subclass 070 (Bridging (Removal Pending)) visa granted to a non-citizen, the visa is subject to those conditions for a period of 12 months from the day the visa is granted:

(a) condition 8617;

(b) condition 8618;

(c) condition 8620;

(d) condition 8621.

(2) Subregulation (1) does not prevent another Subclass 070 (Bridging (Removal Pending)) visa being granted to the non-citizen, before or after the 12-month period referred to in subregulation (1) ends, with any one or more of those conditions imposed on the visa.

(3) To avoid doubt, if another Subclass 070 (Bridging (Removal Pending)) visa is granted to the non-citizen with any one or more of those conditions imposed on the visa, then the visa is subject to those conditions for a period of 12 months from the day the visa is granted.

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Division 2.5A—Special provisions relating to certain health criteria

2.25A Referral to Medical Officers of the Commonwealth

(1) In determining whether an applicant satisfies the criteria for the grant of a visa, the Minister must seek the opinion of a Medical Officer of the Commonwealth on whether a person (whether the applicant or another person) meets the requirements of paragraph 4005(1)(a), 4005(1)(b), 4005(1)(c), 4007(1)(a), 4007(1)(b) or 4007(1)(c) of Schedule 4 unless:

(a) the application is for a temporary visa and there is no information known to Immigration (either through the application or otherwise) to the effect that the person may not meet any of those requirements; or

(b) the application is for a permanent visa that is made from a country (whether Australia or a foreign country) specified in a legislative instrument made by the Minister for the purposes of this paragraph and there is no information known to Immigration (either through the application or otherwise) to the effect that the person may not meet any of those requirements.

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

(2) In determining whether an applicant satisfies the criteria for the grant of a Medical Treatment (Visitor) (Class UB) visa, if there is information known to Immigration (either through the application or otherwise) to the effect that the requirement in subclause 602.212(2)(d) has not been met, the Minister must seek the opinion of a Medical Officer of the Commonwealth on whether the requirement has been met.

(3) The Minister is to take the opinion of the Medical Officer of the Commonwealth on a matter referred to in subregulation (1) or (2) to be correct for the purposes of deciding whether a person meets a requirement or satisfies a criterion.

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Division 2.6—Prescribed qualifications—application of points system

2.26AC Prescribed qualifications and number of points for Subclass 189, 190, 489 and 491 visas

(1) For subsection 93(1) of the Act, this regulation applies to an application for:
  (a) a Skilled—Independent (Permanent) (Class SI) visa; or
  (b) a Skilled—Nominated (Permanent) (Class SN) visa; or
  (c) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
  (d) a Skilled Work Regional (Provisional) (Class PS) visa.

(2) Each qualification specified in an item of Schedule 6D is prescribed as a qualification in relation to the grant, to the applicant, of:
  (a) a Subclass 189 (Skilled—Independent) visa in the Points-tested stream; or
  (b) a Subclass 190 (Skilled—Nominated) visa; or
  (c) a Subclass 489 (Skilled—Regional (Provisional)) visa; or
  (d) a Subclass 491 (Skilled Work Regional (Provisional)) visa.

(3) The number of points prescribed for a qualification specified in an item in Schedule 6D is specified in the item.

(4) For Schedule 6D:
  (a) The Minister must not give the applicant a prescribed number of points for more than one prescribed qualification in each Part of the Schedule; and
  (b) if the applicant's circumstances satisfy more than one prescribed qualification in a Part of the Schedule, the Minister must give the applicant points for the qualification that has been satisfied that attracts the highest number of points.

Note: Part 6D.5 of Schedule 6D (Aggregating points for employment experience qualifications) recalculates an applicant's points if the applicant has qualifications specified in Part 6D.3 of Schedule 6D (Overseas employment experience qualifications) and Part 6D.4 of Schedule 6D (Australian employment experience qualifications).

(5) For items 6D71 and 6D72 of Part 6D.7 of Schedule 6D, in determining whether an educational qualification is of a recognised standard, the Minister must have regard to:
  (a) whether, at the time of invitation to apply for the visa, the educational qualification had been recognised by the relevant assessing authority for the applicant's nominated skilled occupation as being suitable for the occupation; and
  (b) whether the educational qualification is recognised by a body specified by the Minister in an instrument in writing for this paragraph; and
  (c) the duration of the applicant's study towards the educational qualification; and
  (d) any other relevant matter.

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(5A) For Schedule 6D, a person meets the requirements for the award of a ***specialist educational qualification*** if the person satisfies the Minister that:

(a) the person has met the requirements for the award, by an Australian educational institution, of:

(i) a masters degree by research; or

(ii) a doctoral degree; and

(b) the degree included study for at least 2 academic years at the institution in a field of education specified in an instrument under subregulation (5B).

Note: ***Academic year*** is defined in regulation 1.03.

(5B) The Minister may, by legislative instrument, specify a field or fields of education for the purposes of paragraph (5A)(b).

(6) In Schedule 6D and this regulation:

degree means a formal educational qualification, under the Australian Qualifications Framework, awarded by an Australian educational institution as a degree or a postgraduate diploma for which:

(a) the entry level to the course leading to the qualification is:

(i) in the case of a bachelor's degree—satisfactory completion of year 12 in the Australian school system or of equivalent schooling; and

(ii) in the case of a master's degree—satisfactory completion of a bachelor's degree awarded at an Australian tertiary educational institution or of an equivalent award; and

(iii) in the case of a doctoral degree—satisfactory completion of a bachelor's degree awarded with honours, or a master's degree, at an Australian tertiary educational institution or of an equivalent award; and

(iv) in the case of a postgraduate diploma—satisfactory completion of a bachelor's degree or diploma awarded at an Australian tertiary educational institution or of an equivalent award; and

(b) in the case of a bachelor's degree, not less than 3 years of full-time study, or the equivalent period of part-time study, is required.

diploma means:

(a) an associate diploma, or a diploma, within the meaning of the Register of Australian Tertiary Education (as current on 1 July 1999), that is awarded by a body authorised to award diplomas of those kinds; or

(b) a diploma, or an advanced diploma, under the Australian Qualifications Framework, that is awarded by a body authorised to award diplomas of those kinds.

employed means engaged in an occupation for remuneration for at least 20 hours a week.

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

trade qualification means:

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(a) an Australian trade qualification obtained as a result of the completion of:
(i) an indentured apprenticeship; or
(ii) a training contract;
that is required by State or Territory industrial training legislation or a relevant Federal, State or Territory industrial award and involves:
(iii) part-time formal training at a technical college or a college of technical and further education; and
(iv) employment within the meaning of:
(A) an industrial award under a law of the Commonwealth or of a State or Territory; or
(B) a law of a State or Territory dealing with commercial or industrial training; or

(b) a qualification, under the Australian Qualifications Framework, of at least the Certificate III level for a skilled occupation in Major Group IV in the ASCO; or

(c) a qualification, under the Australian Qualifications Framework, of at least the Certificate III level for a skilled occupation in Major Group 3 in ANZSCO.

2.26B Relevant assessing authorities

Specifying relevant assessing authorities

(1) Subject to subregulation (1A), the Minister may, by an instrument in writing for this subregulation, specify a person or body as the relevant assessing authority for:
(a) a skilled occupation; and
(b) one or more countries;
for the purposes of an application for a skills assessment made by a resident of one of those countries.

(1A) The Minister must not specify a person or body as the relevant assessing authority for a skilled occupation and one or more countries unless the person or body has been approved as the relevant assessing authority for the occupation and the countries under subregulation (1B).

Approving relevant assessing authorities

(1B) For the purposes of subregulation (1A), the Skills Assessment Minister may, in writing, approve a person or body as the relevant assessing authority for:
(a) a skilled occupation; and
(b) one or more countries.

(1C) The Skills Assessment Minister may, in writing, delegate his or her power under subregulation (1B) to:
(a) the Skills Assessment Secretary; or
(b) an SES employee, or acting SES employee, who:

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(i) is in the Skills Assessment Department; and
(ii) has responsibilities relating to skills assessment services.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

Standards against which skills are assessed

(2) The standards against which the skills of a person are assessed by a relevant assessing authority for a skilled occupation must be the standards set by the relevant assessing authority for the skilled occupation.

(3) A relevant assessing authority may set different standards for assessing a skilled occupation for different visa classes or subclasses.

2.27C Skilled occupation in Australia

In determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

(a) held:
(i) a substantive visa; or
(ii) a Subclass 010 Bridging A visa; or
(iii) a Subclass 020 Bridging B visa;
authorising him or her to work during that period; and
(b) complied with the conditions of that visa.

2.27D Study in Australia

In determining whether an applicant satisfies a criterion for the grant of a General Skilled Migration visa that the applicant has studied in Australia for a certain period, a period of study cannot be counted unless the applicant:

(a) held:
(i) a substantive visa; or
(ii) a Subclass 010 (Bridging A) visa; or
(iii) a Subclass 020 (Bridging B) visa;
authorising him or her to study during that period; and
(b) complied with the conditions of that visa.

2.28 Notice of putting application aside

(1) If the Minister puts an application aside under paragraph 94(3)(a) of the Act, he or she must notify the applicant in writing that he or she has done so.

(2) A notification under subregulation (1) must set out:
(a) the decision of the Minister; and
(b) the reason for the decision; and
(c) that the decision can be reviewed; and

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(d) the time in which an application for review may be made; and
(e) who can apply for the review; and
(f) where the application for review can be made.

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Division 2.8—Special purpose visas

2.40 Persons having a prescribed status—special purpose visas (Act, s 33(2)(a))

Persons who hold prescribed status

(1) For the purposes of paragraph 33(2)(a) of the Act (which deals with persons who are taken to have been granted special purpose visas), and subject to this regulation, each non-citizen who is included in one of the following classes of person has a prescribed status:

(a) members of the Royal Family;
(b) members of the Royal party;
(c) guests of Government;
(d) SOFA forces members;
(e) SOFA forces civilian component members;
(f) Asia-Pacific forces members;
(g) Commonwealth forces members;
(h) foreign armed forces dependants;
(j) foreign naval forces members;
(l) airline positioning crew members;
(m) airline crew members;
(n) transit passengers who belong to a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph;
(p) persons visiting Macquarie Island;
(q) children born in Australia:
  (i) of a mother who at the time of the birth holds a special purpose visa, if only the mother is in Australia at that time; or
  (ii) to parents both of whom, at the time of the birth, hold special purpose visas, if at that time both parents are in Australia;
(t) Indonesian traditional fishermen visiting the Territory of Ashmore and Cartier Islands.

Note: the terms used in paragraphs (1)(a) to (n) are defined in regulation 1.03.

Armed forces members

(2) A person included in a class of persons specified in paragraph (1)(d), (e), (f), (g) or (j) has a prescribed status only while he or she is not absent without leave.

Armed forces dependants

(3) A person included in a class of persons specified in paragraph (1)(h) has a prescribed status only while the person of whom he or she is a spouse or de facto partner, or on whom he or she is dependent, is not absent without leave.

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Persons must not work in Australia

(4) A person included in a class of persons specified in paragraph (1)(d), (e), (f), (g), (j), (l) or (m) has a prescribed status only while he or she does not perform work in Australia (other than work of a kind that he or she normally performs during the course of his or her duties as a person of a kind referred to in the relevant paragraph).

Note: Regulation 2.40A sets out further restrictions on the work airline positioning crew members and airline crew members may perform in Australia.

Foreign naval forces members

(5) A person included in a class of persons specified in paragraph (1)(j) has a prescribed status if and only if the vessel on which he or she enters the migration zone has the prior approval of the Australian government to do so.

Airline positioning crew members

(9) A person included in a class of persons specified in paragraph (1)(l) has a prescribed status for the period of 5 working days beginning when he or she disembarks from the aircraft on which he or she travelled to Australia if and only if he or she:

(a) holds a passport that is in force; and

(b) carries a letter from his or her employer certifying aircrew status and setting out the purpose of the person's travel to Australia and the arrangements for the person to leave Australia.

Airline crew members

(10) A person included in a class of persons mentioned in paragraph (1)(m) has a prescribed status for 30 days, beginning when he or she disembarks from the aircraft on which he or she travelled to Australia, if and only if he or she:

(a) holds a passport that is in force; and

(b) holds:

(i) a valid airline identity card issued by his or her employer; or

(ii) for a person who is an aircraft safety inspector:

(A) a valid government identity document showing that he or she is employed by a foreign government; or

(B) an ICAO Safety Inspector Certificate; and

(c) is included in a list of members of the crew of the aircraft provided to Immigration by or for the international air carrier that operates the aircraft.

Transit passengers

(11) A person included in a class of persons specified in paragraph (1)(n) has a prescribed status only while he or she remains in the airport transit lounge.

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Macquarie Island visitors

(12) A person included in a class of persons specified in paragraph (1)(p) has a prescribed status:
  (a) only while he or she remains on Macquarie Island; and
  (b) only if the Secretary of the Department of Primary Industries, Parks, Water and Environment of the State of Tasmania has granted written permission in advance for the person to visit that Island.

Children born in Australia

(13) A person included in a class of persons specified in paragraph (1)(q) has a prescribed status:
  (a) in the case of a child referred to in subparagraph (1)(q)(i)—until the child's mother ceases to have a prescribed status; or
  (b) in the case of a child referred to in subparagraph (1)(q)(ii)—until whichever of the child's parents last ceases to have a prescribed status ceases to have that status.

Indonesian traditional fishermen

(16) A person included in the class of persons specified in paragraph (1)(t) has a prescribed status only if the person:
  (a) is a traditional fisherman within the meaning of the Memorandum of Understanding made at Jakarta on 7 November 1974 between Australia and the Republic of Indonesia regarding the operations of Indonesian fishermen in areas of the Australian Exclusive Fishing Zone and Continental Shelf; and
  (b) when visiting the Territory of Ashmore and Cartier Islands, is engaged in an activity described in the Memorandum of Understanding, as varied by the 1989 Practical Guidelines for Implementation contained in the Annex to the Agreed Minutes of Meeting between officials of Australia and Indonesia on fisheries of 29 April 1989.

Note: The Memorandum, as varied by the Guidelines, has the general effect of accommodating a traditional fisherman engaged in taking fish or marine sedentary organisms by a method that has been a traditional method over decades of time, who is:
  (a) actually taking fish or marine sedentary organisms; or
  (b) sheltering within the territorial sea of the Territory; or
  (c) on shore at the island known as West Islet, for the purpose only of getting fresh water.

Expressly excluded is fishing using a motorised, or motor-assisted, vessel or method.

2.40A Conditions applicable to special purpose visas

For subsection 41(1) of the Act:
  (a) a special purpose visa taken to be granted to an airline positioning crew member is subject to condition 8117; and
  (b) a special purpose visa taken to be granted to an airline crew member is subject to condition 8118.

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Division 2.9—Cancellation or refusal to grant visas

Subdivision 2.9.1—Cancellation under Subdivision C of Division 3 of Part 2 of the Act

Note: The obligations of a visa holder under Subdivision C of Division 3 of Part 2 of the Act are: to supply correct information on his or her application form (s 101), including answers on passenger cards (s 102); not to give bogus documents (s 103); to notify changes in circumstances (s 104); and, if incorrect information is given, to correct it (s 105). The obligation is not affected by other sources of information being available (s 106). If the Minister gives a visa holder a notice under s 107(1) stating that there may have been non-compliance and asking the visa holder for a response, the answers must be correct (s 107(2)).

2.41 Whether to cancel visa—incorrect information or bogus document (Act, s 109(1)(c))

For the purposes of paragraph 109(1)(c) of the Act, the following circumstances are prescribed:

(a) the correct information;

(b) the content of the genuine document (if any);

(c) whether the decision to grant a visa or immigration clear the visa holder was based, wholly or partly, on incorrect information or a bogus document;

(d) the circumstances in which the non-compliance occurred;

(e) the present circumstances of the visa holder;

(f) the subsequent behaviour of the visa holder concerning his or her obligations under Subdivision C of Division 3 of Part 2 of the Act;

(g) any other instances of non-compliance by the visa holder known to the Minister;

(h) the time that has elapsed since the non-compliance;

(j) any breaches of the law since the non-compliance and the seriousness of those breaches;

(k) any contribution made by the holder to the community.

Note: Under s. 109 of the Act, the Minister may cancel a visa if there was non-compliance by the holder of a kind set out in Subdivision C of Division 3 of Part 2 of the Act. The Minister is to have regard to the prescribed circumstances in considering whether to cancel the visa.

Subdivision 2.9.2—Cancellation generally

2.43 Grounds for cancellation of visa (Act, s 116)

(1) For the purposes of paragraph 116(1)(g) of the Act (which deals with circumstances in which the Minister may cancel a visa), the grounds prescribed are the following:

(a) that the Foreign Minister has personally determined that:

(i) in the case of a visa other than a relevant visa—the holder of the visa is a person whose presence in Australia:

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(A) is, or would be, contrary to Australia's foreign policy interests; or

(B) may be directly or indirectly associated with the proliferation of weapons of mass destruction; or

(ii) in the case of a relevant visa—the holder of the visa is a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction;

Note: A ***relevant visa*** is explained in subregulation (3).

(aa) in the case of a person who is the holder of a visa other than a relevant visa, the person:

(i) is declared under paragraph 6(b) or 6A(1)(b), (2)(b), (4)(b), (5)(b), (8)(b) or (9)(b) of the *Autonomous Sanctions Regulations 2011* for the purpose of preventing the person from travelling to, entering or remaining in Australia; and

(ii) is not a person for whom the Foreign Minister has waived the operation of the declaration in accordance with regulation 19 of the *Autonomous Sanctions Regulations 2011*;

(b) that the holder of the visa has been assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security, within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*;

(c) that there is an unreasonable risk of an unwanted transfer of critical technology by the holder of the visa;

(e) in the case of:

(i) the holder of an Electronic Travel Authority (Class UD) visa who is under 18; or

(iii) the holder of a Tourist (Class TR) visa, that was applied for using form 601E, who is under 18; or

(iv) the holder of a Visitor (Class TV) visa who is under 18; or

(iva) the holder of a Subclass 600 (Visitor) visa in the Tourist stream, that was applied for using form 1419 (Internet), who is under 18;

that either:

(v) both of the following apply:

(A) the law of the visa holder's home country did not permit the removal of the visa holder;

(B) at least 1 of the persons who could lawfully determine where the additional applicant is to live did not consent to the grant of the visa; or

(vi) the grant of the visa was inconsistent with any Australian child order in force in relation to the visa holder;

(ea) in the case of a Subclass 601 (Electronic Travel Authority) visa—that, despite the grant of the visa, the Minister is satisfied that the visa holder:

(i) did not have, at the time of the grant of the visa, an intention only to stay in, or visit, Australia temporarily for the tourism or business purposes for which the visa was granted; or

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(ii) has ceased to have that intention;

(f) in the case of:

(i) the holder of an Electronic Travel Authority (Class UD) visa who is under 18 and is not accompanied by his or her parent or guardian; or

(iii) the holder of a Tourist (Class TR) visa, that was applied for using a form 601E, who:

(A) is under 18; and

(B) is not accompanied by his or her parent or guardian; or

(iv) the holder of a Visitor (Class TV) visa who is under 18 and is not accompanied by his or her parent or guardian; or

(v) the holder of a Subclass 600 (Visitor) visa in the Tourist stream, that was applied for using form 1419 (Internet), who is under 18 and is not accompanied by his or her parent or guardian;

that the holder of that visa does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's proposed visit in Australia;

(g) in the case of a temporary visa held by a person other than a visa holder mentioned in paragraph (h)—that the visa holder asks the Minister, in writing, to cancel the visa;

(h) in the case of a temporary visa held by a person who is under the age of 18 years and is not a spouse, a former spouse or engaged to be married—that:

(i) a person who is at least 18 years of age, and who can lawfully determine where the visa holder is to live, asks the Minister, in writing, to cancel the visa; and

(ii) the Minister is satisfied that there is no compelling reason to believe that the cancellation of the visa would not be in the best interests of the visa holder;

(i) in the case of the holder of:

(i) a Subclass 456 (Business (Short Stay)) visa; or

(ia) a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa; or

(ib) a Subclass 600 (Visitor) visa in the Business Visitor stream; or

(ii) a Subclass 956 (Electronic Travel Authority (Business Entrant—Long Validity)) visa; or

(iii) a Subclass 977 (Electronic Travel Authority (Business Entrant—Short Validity)) visa—

that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for business purposes;

(ia) in the case of a holder of:

(i) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa; or

(ia) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or

(ib) a Subclass 402 (Training and Research) visa; or

(ic) a Subclass 403 (Temporary Work (International Relations)) visa; or

(id) a Subclass 407 (Training) visa; or

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(ie) a Subclass 408 (Temporary Activity) visa; or
(iii) a Subclass 416 (Special Program) visa; or
(v) a Subclass 420 (Entertainment) visa; or
(xi) a Subclass 488 (Superyacht Crew) visa;

that the grounds in subregulation (1A) are met;

(j) in the case of the holder of:
(i) a Subclass 600 (Visitor) visa that is not in the Business Visitor stream or the Frequent Traveller stream; or
(ii) a Subclass 676 (Tourist) visa; or
(iii) a Subclass 679 (Sponsored Family Visitor) visa;

that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia as a visitor temporarily for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the visa holder or for another purpose, other than a purpose related to business or medical treatment;

(ja) in the case of the holder of a Subclass 600 (Visitor) visa in the Frequent Traveller stream—that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia as a tourist or to engage in a business visitor activity;

(k) in the case of the holder of a Subclass 976 (Electronic Travel Authority (Visitor)) visa—that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit Australia temporarily for tourism purposes;

(ka) in the case of a holder of a Subclass 651 (eVisitor) visa—that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for the tourism or business purposes for which the visa was granted;

(kb) in the case of the holder of a Subclass 457 (Temporary Work (Skilled)) visa that was granted on the basis that the applicant met the requirements of subregulation 457.223(4) (as in force before 18 March 2018)—that, despite the grant of the visa, the Minister is satisfied that:
(i) the holder did not have a genuine intention to perform the occupation mentioned in paragraph 457.223(4)(d) (as in force before 18 March 2018) at the time of grant of the visa; or
(ii) the holder has ceased to have a genuine intention to perform that occupation; or
(iii) the position associated with the nominated occupation is not genuine;

(kc) in the case of the holder of a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream, Medium-term stream or Labour Agreement stream—that, despite the grant of the visa, the Minister is satisfied that:

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(i) the holder did not have a genuine intention at the time of grant of the visa to perform the occupation mentioned in subclause 482.212(2) of Schedule 2; or

(ii) the holder has ceased to have a genuine intention to perform that occupation; or

(iii) the position associated with that occupation is not genuine;

(kd) in the case of the holder of Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—that, despite the grant of the visa, the Minister is satisfied that:

(i) the holder did not have a genuine intention at the time of grant of the visa to perform the occupation mentioned in subclause 494.213(2) of Schedule 2; or

(ii) the holder has ceased to have a genuine intention to perform that occupation; or

(iii) the position associated with that occupation is not genuine;

(l) in the case of the holder of a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa who is a primary sponsored person in relation to a person who is, or was, a standard business sponsor or party to a labour agreement (the ***sponsor***)—that:

(ii) the sponsor has given false or misleading information to Immigration or the ART; or

(iii) the sponsor has failed to satisfy a sponsorship obligation; or

(iv) the sponsor has been cancelled or barred under section 140M of the Act; or

(v) the labour agreement has been terminated, has been suspended or has ceased;

(lc) in the case of a holder of:

(i) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or

(ia) a Subclass 402 (Training and Research) visa; or

(ib) a Subclass 407 (Training) visa; or

(ic) a Subclass 408 (Temporary Activity) visa; or

(iii) a Subclass 416 (Special Program) visa; or

(xi) a Subclass 488 (Superyacht Crew) visa;

who is a primary sponsored person in relation to a person who is or was an approved work sponsor—that 1 of the grounds specified in subregulation (1B) is met;

(ld) in the case of a holder of:

(i) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or

(ia) a Subclass 402 (Training and Research) visa; or

(ib) a Subclass 407 (Training) visa; or

(iii) a Subclass 420 (Entertainment) visa; or

(ix) a Subclass 457 (Temporary Work (Skilled)) visa; or

(x) a Subclass 482 (Temporary Skill Shortage) visa; or

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(xi) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

who is a secondary sponsored person in relation to a person who is or was an approved work sponsor—that the person who is or was an approved work sponsor of the primary sponsored person to whom the secondary sponsored person is related has not listed the secondary sponsored person in the latest nomination in which the primary sponsored person is identified;

(le) in the case of a holder of:

(i) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or

(ia) a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.223 (religious worker) or 408.224 (domestic worker) of Schedule 2; or

(iv) a Subclass 457 (Temporary Work (Skilled)) visa; or

(v) a Subclass 482 (Temporary Skill Shortage) visa; or

(vi) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

who is a primary sponsored person or a secondary sponsored person in relation to a person who is or was an approved work sponsor—that the person who is or was an approved work sponsor has paid the return travel costs of the holder in accordance with the sponsorship obligation mentioned in regulation 2.80 or 2.80A;

(m) that the Minister reasonably suspects that the holder of the visa has committed an offence under section 232A, 233, 233A, 234 or 236 of the Act;

(n) that:

(i) a certificate is in force under paragraph 271(1)(l) of the Act, stating that a computer program was not functioning correctly; and

(ii) both of the following apply:

(A) the visa was granted at the time, or during the period, that is specified in the certificate;

(B) the grant of the visa is an outcome from the operation of that program, under an arrangement made under subsection 495A(1) of the Act, that is specified in the certificate;

(na) the holder of the visa provided an Australia Travel Declaration (other than an Australia Travel Declaration that was withdrawn before the time referred to in paragraph 3.03AB(1)(b)) and one or more of the following apply:

(i) the Australia Travel Declaration was incorrect at the time it was submitted to the departmental system that processes such declarations;

(ii) the Australia Travel Declaration was incorrect at the time the holder, or a person in charge of the holder on the relevant flight or voyage, showed the electronic message generated by that system in respect of the declaration to a clearance authority;

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(iii) the holder, or a person in charge of the holder on the relevant flight or voyage, has provided incorrect information in relation to the Australia Travel Declaration;

(o) that the Minister reasonably suspects that the visa has been obtained as a result of the fraudulent conduct of any person;

(oa) in the case of the holder of a temporary visa (other than a Subclass 050 (Bridging (General)) visa, a Subclass 051 (Bridging (Protection Visa Applicant)) visa or a Subclass 444 (Special Category) visa)—that the Minister is satisfied that the holder has been convicted of an offence against a law of the Commonwealth, a State or Territory (whether or not the holder held the visa at the time of the conviction and regardless of the penalty imposed (if any));

(ob) in the case of the holder of a temporary visa (other than a Subclass 050 (Bridging (General)) visa, a Subclass 051 (Bridging (Protection Visa Applicant)) visa or a Subclass 444 (Special Category) visa)—that the Minister is satisfied that the holder is the subject of a notice (however described) issued by Interpol for the purpose of providing a warning or intelligence that:

(i) the holder has committed an offence against a law of another country and is likely to commit a similar offence; or

(ii) the holder is a serious and immediate threat to public safety;

(p) in the case of the holder of a Subclass 050 (Bridging (General)) visa or a Subclass 051 (Bridging (Protection Visa Applicant)) visa—that the Minister is satisfied that the holder:

(i) has been convicted of an offence against a law of the Commonwealth, a State, a Territory or another country (other than if the conviction resulted in the holder's last substantive visa being cancelled under paragraph (oa)); or

(ii) has been charged with an offence against a law of the Commonwealth, a State, a Territory or another country; or

(iii) is the subject of a notice (however described) issued by Interpol for the purposes of locating the holder or arresting the holder; or

(iv) is the subject of a notice (however described) issued by Interpol for the purpose of providing either or both of a warning or intelligence that the holder:

(A) has committed an offence against a law of another country; and

(B) is likely to commit a similar offence; or

(v) is the subject of a notice (however described) issued by Interpol for the purpose of providing a warning that the holder is a serious and immediate threat to public safety;

(q) in the case of the holder of a Subclass 050 (Bridging (General)) visa or a Subclass 051 (Bridging (Protection Visa Applicant)) visa—that:

(i) an agency responsible for the regulation of law enforcement or security in Australia has advised the Minister that the holder is under investigation by that agency; and

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(ii) the head of that agency has advised the Minister that the holder should not hold a Subclass 050 (Bridging (General)) visa or a Subclass 051 (Bridging (Protection Visa Applicant)) visa;

(r) in the case of the holder of a Subclass 771 (Transit) visa—that, despite the grant of the visa, the Minister reasonably suspects that the holder of the visa:

(i) did not have, at the time of the grant of the visa, an intention to transit Australia; or

(ii) has ceased to have that intention;

(s) in the case of a holder of:

(i) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa; or

(ii) a Subclass 403 (Temporary Work (International Relations)) visa; or

(iii) a Subclass 407 (Training) visa; or

(iv) a Subclass 408 (Temporary Activity) visa; or

(v) a Subclass 417 (Working Holiday) visa; or

(vi) a Subclass 457 (Temporary Work (Skilled)) visa; or

(vii) a Subclass 462 (Work and Holiday) visa; or

(viii) a Subclass 476 (Skilled—Recognised Graduate) visa; or

(ix) a Subclass 482 (Temporary Skill Shortage) visa; or

(x) a Subclass 485 (Temporary Graduate) visa; or

(xi) a Subclass 500 (Student) visa; or

(xii) a Subclass 590 (Student Guardian) visa; or

(xiii) a Subclass 600 (Visitor) visa; or

(xiv) a Subclass 601 (Electronic Travel Authority) visa; or

(xv) a Subclass 651 (eVisitor) visa; or

(xvi) a Subclass 676 (Tourist) visa; or

(xvii) a Subclass 771 (Transit) visa; or

(xviii) a Subclass 988 (Maritime Crew) visa;

who is in Australia and who has not been immigration cleared—that the Minister reasonably believes that the visa holder has contravened subsection 126(2), 128(2), 186A(1), 532(1) or 533(1) of the *Biosecurity Act 2015*;

(t) in the case of the holder of a temporary visa—that the Minister reasonably believes that the visa holder:

(i) has imported goods to which regulation 4A of the *Customs (Prohibited Imports) Regulations 1956* applies; and

(ii) has not been granted a permission under subregulation 4A(2) of those Regulations to import the goods.

(1A) For paragraph (1)(ia), the grounds are that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have at the time of grant of the visa, or has ceased to have, a genuine intention to stay temporarily in Australia to carry out the work or activity in relation to which:

(a) the visa holder's visa was granted; or

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(b) if the visa holder is identified in a nomination after the visa is granted—the visa holder was identified in a nomination.

(1B) For paragraph (1)(lc), the grounds are the following:

(a) the approval of the person as a work sponsor has been cancelled, or the approved work sponsor has been barred, under section 140M of the Act;

(c) if the primary sponsored person is required to be identified in a nomination—the criteria for approval of the latest nomination in which the primary sponsored person is identified are no longer met;

(d) the person who is or was an approved work sponsor has failed to satisfy a sponsorship obligation.

(1C) For subsection 116(1A) of the Act, the Minister may have regard to the matter mentioned in subregulation (1D) in determining whether he or she is satisfied as mentioned in paragraph 116(1)(fa) of the Act.

(1D) For subregulation (1C), the matter is that participation in a course of study by the holder of a student visa has been deferred or temporarily suspended by the provider of the course of study:

(a) because of the conduct of the holder; or

(b) because of the circumstances of the holder, other than compassionate or compelling circumstances; or

(c) because of compassionate or compelling circumstances of the holder, if the Minister is satisfied that the circumstances have ceased to exist; or

(d) on the basis of evidence or a document given to the provider about the holder's circumstances, if the Minister is satisfied that the evidence or document is fraudulent or misrepresents the holder's circumstances.

(2) For subsection 116(3) of the Act, the circumstances in which the Minister must cancel a visa are:

(a) in the case of a visa other than a relevant visa—each of the circumstances comprising the grounds set out in:

(i) sub-subparagraphs (1)(a)(i)(A) and (B); and

(ii) paragraph (1)(aa); and

(iii) paragraph (1)(b); and

(iv) paragraph (1)(c); and

(aa) in the case of a relevant visa—the circumstance comprising the grounds set out in subparagraph (1)(a)(ii).

(3) In this regulation:

relevant visa means a visa of any of the following subclasses:

(aa) Subclass 050;

(aaa) Subclass 070;

(a) Subclass 200;

(b) Subclass 201;

(c) Subclass 202;

(d) Subclass 203;

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(e) Subclass 204;
(g) Subclass 449;
(i) Subclass 785, including a Subclass 785 visa granted before 2 December 2013;
(j) Subclass 786;
(k) Subclass 866.

2.43A Minister must have regard to certain matters in considering cancellation of certain temporary visas for breach of visa condition

(1) This regulation applies in relation to a visa if:
  (a) the visa is a temporary visa other than:
    (i) a criminal justice visa; or
    (ii) an enforcement visa; and
  (b) the Minister is satisfied that the visa holder has not complied with a particular condition (the ***relevant condition***) to which the holder's visa is subject; and
  (c) regulation 2.43B does not apply in relation to the visa.

(2) For the purposes of paragraph 116(1A)(a) of the Act, the Minister must have regard to the following matters in determining whether the Minister is satisfied as mentioned in paragraph 116(1)(b) of the Act:
  (a) any written certificate issued by a certifying entity that is a government entity if the certificate:
    (i) was issued in relation to the visa holder in respect of a workplace exploitation matter; and
    (ii) sets out the matters agreed to by Immigration and the government entity;
  (b) any written certificate issued by a certifying entity that is not a government entity and that states that the entity considers that:
    (i) there is prima facie evidence that the visa holder has been affected by a workplace exploitation matter; and
    (ii) if any law limits the time within which a proceeding may be instituted, or a complaint made, in relation to the workplace exploitation matter—that time has not expired; and
    (iii) there is a connection between the circumstances relating to the breach of the relevant condition and the workplace exploitation matter by which the visa holder has been affected;
  (c) whether there is a connection between the circumstances relating to the breach of the relevant condition and the workplace exploitation matter to which a certificate mentioned in paragraph (a) or (b) relates;
  (d) whether there is any evidence that the visa holder was not complying, or is no longer seeking to comply, with the purpose of the visa;
  (e) whether the visa holder has committed, in writing, to do both of the following:

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(i) to take action, in a timely manner, to resolve the workplace exploitation matter to which a certificate mentioned in paragraph (a) or (b) relates;

(ii) to comply in future with the visa conditions to which the holder's visa is subject;

(f) whether the visa holder has failed to comply with a commitment of a kind mentioned in paragraph (e) of this subregulation, or paragraph 2.43B(2)(d), (3)(d) or (4)(d), that the visa holder has previously given in relation to the visa.

(3) Subregulation (2) does not limit, or otherwise affect, a power or duty of the Minister to cancel the visa under:

(a) paragraph 116(1)(b) of the Act for non-compliance with a condition (other than the relevant condition) to which the visa holder's visa is subject; or

(b) a provision other than paragraph 116(1)(b) of the Act.

Note: For example, see subregulation 2.43(2) for the circumstances in which the Minister must cancel a visa.

2.43B Circumstances in which the Minister is not to cancel certain temporary visa for breach of restricted work condition

(1) This regulation applies in relation to a visa if:

(a) the visa is a temporary visa other than:

(i) a bridging visa; or

(ii) a criminal justice visa; or

(iii) an enforcement visa; and

(b) the visa is subject to a condition (the ***restricted work condition***) restricting the work that the visa holder may do in Australia (other than a condition that prohibits the visa holder from engaging in any work in Australia); and

(c) the Minister is satisfied that the visa holder has not complied with the restricted work condition.

Certificate issued by a certifying entity that is a government entity

(2) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:

(a) a certifying entity that is a government entity has issued a written certificate in relation to the visa holder in respect of a workplace exploitation matter that set outs the matters agreed to by Immigration and the government entity;

(b) the Minister is satisfied that there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the certificate relates;

(c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;

(d) the visa holder has committed, in writing, to do both of the following:

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(i) to take action, in a timely manner, to resolve the workplace exploitation matter to which the certificate relates;
(ii) to comply in future with the visa conditions to which the holder's visa is subject.

Certificate issued by a certifying entity that is not a government entity

(3) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:
(a) a certifying entity that is not a government entity has issued a written certificate stating that the entity considers that:
(i) there is prima facie evidence that the visa holder is currently, or has been within the 12 month period preceding the issue of the certificate, the subject of a workplace exploitation matter; and
(ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder is, or has been, subject;
(b) the Minister is satisfied that there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder is, or has been, subject;
(c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;
(d) the visa holder has committed, in writing, to do both of the following:
(i) to take action to resolve the workplace exploitation matter in a timely manner;
(ii) to comply in future with the visa conditions to which the holder's visa is subject.

(4) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:
(a) a certifying entity that is not a government entity has issued a written certificate stating that the entity considers that:
(i) there is prima facie evidence that the visa holder has been the subject of a workplace exploitation matter at a time that is more than 12 months before the issue of the certificate; and
(ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder has been subject;
(b) the Minister is satisfied that:
(i) the workplace exploitation matter to which the visa holder has been subject is serious or systemic in nature; and
(ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder has been subject;

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(c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;
(d) the visa holder has committed, in writing, to do both of the following:
(i) to take action to resolve the workplace exploitation matter in a timely manner;
(ii) to comply in future with the visa conditions to which the holder's visa is subject.

Failure to comply with written commitment

(5) Subregulations (2), (3) and (4) do not apply in relation to the visa if the Minister is satisfied that the visa holder has failed to comply with a written commitment of a kind mentioned in paragraph (2)(d), (3)(d) or (4)(d), or paragraph 2.43A(2)(e), that the visa holder has previously given in relation to the visa.

Other powers or duties to cancel

(6) Subregulations (2), (3) and (4) do not limit, or otherwise affect, a power or duty of the Minister to cancel the visa under:
(a) paragraph 116(1)(b) of the Act for non-compliance with a condition (other than the restricted work condition) to which the visa holder's visa is subject; or
(b) a provision other than paragraph 116(1)(b) of the Act.

Note: For example, see subregulation 2.43(2) for the circumstances in which the Minister must cancel a visa.

2.44 Invitation to comment—response

(1) For the purposes of subsection 121(2) of the Act (which deals with the time in which a holder must give comments, other than at interview), the periods set out in subregulation (2) are prescribed.

(2) The periods referred to in subregulation (1) begin when the visa holder is notified under subsection 119(2), or receives an invitation under subsection 120(2), as the case requires, and are:
(a) if the visa holder is in Australia—5 working days; or
(b) if the visa holder is outside Australia:
(i) where the cancellation of his or her visa is being considered in Australia—28 days; or
(ii) where the cancellation of his or her visa is being considered at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth in the country in which the visa holder is present—5 working days; or
(iii) where the cancellation of his or her visa is being considered at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth in another country than the country in which the visa holder is present—28 days.

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(3) For the purposes of subsection 121(4) of the Act (which deals with extension of time to give comments), 5 working days is prescribed.

Note 1: Regulation 2.55 applies to the giving of a document relating to:
- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- a decision to revoke or not to revoke the cancellation of a visa under the Act.

Note 2: A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

2.46 Time to respond to notice of cancellation (Act, s 129(1)(c))

For the purposes of paragraph 129(1)(c) of the Act (which deals with response to cancellation of a visa), the following periods are prescribed:

(a) if the former holder of the visa is outside Australia when he or she is given a notice of the cancellation—28 days;

(b) if he or she is in Australia when he or she is given notice of the cancellation:

(i) if he or she wishes the cancellation to be reconsidered while he or she is in Australia—5 minutes; or

(ii) if he or she wishes the cancellation to be reconsidered while he or she is outside Australia, and he or she departs Australia as soon as possible after being given a notice of the cancellation—28 days;

beginning when the former holder of the visa is given a notice of the cancellation.

2.48 Revocation of cancellation (Act, s 131(2))

For the purposes of subsection 131(2) of the Act (which deals with the circumstances in which cancellation of a visa must not be revoked), the circumstance is that the visa was cancelled on a ground prescribed under subsection 116(3).

Note: The grounds prescribed under subsection 116 (3) are grounds on which a visa **must** be cancelled. For those grounds, see subregulation 2.39(2).

2.49A Additional personal powers for Minister to cancel visas—period to submit information, material and representations

(1) For section 133D of the Act, information or material submitted by or on behalf of a person to satisfy the Minister that a ground for cancelling the person's visa does not exist must not be considered by the Minister unless the information or material:

(a) is in writing; and

(b) is submitted within 28 days after the information or material is requested.

(2) For paragraph 133F(3)(b) of the Act, a representation must:

(a) be in writing; and

(b) be made within 28 days after the person is given the notice and information under paragraph 133F(3)(a) of the Act.

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2.50 Cancellation of business visas

(2) For paragraph (a) of the definition of ***business visa*** in subsection 134(10) of the Act, the following classes of visas are prescribed:

(b) Business Skills—Business Talent (Permanent) (Class EA);

(c) Business Skills—Established Business (Residence) (Class BH);

(d) Business Skills (Provisional) (Class EB);

(e) Business Skills (Provisional) (Class UR);

(f) Business Skills (Permanent) (Class EC).

(4) For the definition of ***return visa*** in subsection 134(10) of the Act:

return visa means:

(a) a Return (Residence) (Class BB) visa; or

(b) a Resident Return (Temporary) (Class TP) visa.

2.50AA Cancellation of regional sponsored employment visas

For section 137Q of the Act, each item in the table sets out:

(a) a kind of visa that is a regional sponsored employment visa; and

(b) the period within which a holder of a visa of that kind must commence the employment referred to in the employer nomination.

Item	Visa	Period
1	Subclass 119 (Regional Sponsored Migration Scheme) visa	6 months from the date the holder first entered Australia as the holder of the visa
2	Subclass 187 (Regional Sponsored Migration Scheme) visa	If the holder was in Australia on the date of grant of the visa, 6 months from the date of grant of the visa If the holder was not in Australia on the date of grant of the visa, 6 months from the date the holder first entered Australia as the holder of the visa
3	Subclass 857 (Regional Sponsored Migration Scheme) visa	6 months from the date of grant of the visa

Subdivision 2.9.3—Refusal or cancellation on character grounds

2.52 Refusal or cancellation of visa—representations in respect of revocation of decision by Minister (Act, s 501C and 501CA)

(1) This regulation applies to representations made to the Minister under paragraphs 501C(3)(b) and 501CA(3)(b) of the Act.

(2) The representations must be made:

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(a) for a representation under paragraph 501C(3)(b) of the Act—within 7 days after the person is given the notice under subparagraph 501C(3)(a)(i) of the Act; and
(b) for a representation under paragraph 501CA(3)(b) of the Act—within 28 days after the person is given the notice and the particulars of relevant information under paragraph 501CA(3)(a) of the Act.

(3) The representations must be in writing, and:
(a) in English; or
(b) if the representations are in a language other than English—accompanied by an accurate English translation.

(4) The representations must include the following information:
(a) the full name of the person to whom the representations relate;
(b) the date of birth of that person;
(c) one of the following:
(i) the applicant's client number;
(ii) the Immigration file number;
(iii) the number of the receipt issued by Immigration when the visa application was made;
(d) if the visa application was made outside Australia—the name of the Australian mission or Immigration office at which the visa application was given to the Minister;
(e) a statement of the reasons on which the person relies to support the representations.

(5) A document accompanying the representations must be:
(a) the original document; or
(b) a copy of the original document that is certified in writing to be a true copy by:
(i) a Justice of the Peace; or
(ii) a Commissioner for Declarations; or
(iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or
(iv) if the copy is certified in a place outside Australia:
(A) a person who is the equivalent of a Justice of the Peace or a Commissioner for Declarations in that place; or
(B) a Notary Public.

(6) If a document accompanying the representations is in a language other than English, the document must be accompanied by an accurate English translation.

(7) For section 501C of the Act (see subsection (10)), a person is not entitled to make representations about revocation of an original decision if:
(a) the person is not a detainee; and
(b) the person is a non-citizen in Australia; and
(c) either:

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(i) the person has been refused a visa under section 501 or 501A of the Act; or

(ii) the last visa held by the person has been cancelled under either of those sections.

2.53 Submission of information or material (Act, s 501D)

(1) For section 501D of the Act, information or material must be:

(a) in writing; and

(b) received by the Minister or Immigration within 28 days after the person is invited by the Minister or Immigration to submit information or material.

(2) A document containing the information or material must be:

(a) the original document; or

(b) a copy of the original document that is certified in writing to be a true copy by:

(i) a Justice of the Peace; or

(ii) a Commissioner for Declarations; or

(iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or

(iv) if the copy is certified in a place outside Australia:

(A) a person who is the equivalent of a Justice of the Peace or a Commissioner for Declarations in that place; or

(B) a Notary Public.

(3) The document must contain, or be accompanied by, the following written information:

(a) the full name of the person who is the subject of the decision to which the information or material contained in the document relates;

(b) the date of birth of that person;

(c) one of the following:

(i) the applicant's client number;

(ii) the Immigration file number;

(iii) the number of the receipt issued by Immigration when the visa application was made;

(d) if the visa application was made outside Australia—the name of the Australian mission or Immigration office at which the visa application was given to the Minister.

(4) If the document is submitted in a language other than English, it must be accompanied by an accurate English translation.

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Division 2.10—Documents relating to cancellation of visas

2.53A Purpose of Division 2.10

This Division is made for the purposes of the following provisions of the Act:

(a) subsection 107(1C);
(b) subsection 109(4);
(c) subsection 119(2);
(d) subsection 120(3);
(e) subsection 127(2A);
(f) subsection 129(2);
(g) subsection 132(2);
(h) subsection 133E(2);
(i) paragraph 133F(3)(a);
(j) paragraph 134E(3)(b);
(k) subsection 134(7A);
(l) subsection 135(6);
(m) subsection 137R(4);
(n) subsection 137S(1A);
(o) subsection 500A(10A);
(p) subsection 501C(3A);
(q) subsection 501CA(3A);
(r) subsection 501G(3);
(s) paragraph 504(1)(e).

2.54 Definitions for Division 2.10

In this Division:

carer of the minor means an individual:

(a) who is at least 18 years of age; and
(b) who the Minister reasonably believes:
    (i) has day-to-day care and responsibility for the minor; or
    (ii) works in or for an organisation that has day-to-day care and responsibility for the minor and whose duties, whether alone or jointly with another person, involve care and responsibility for the minor.

designated document means:

(a) a document required by subsection 133E(1) of the Act to be given in relation to a decision to cancel a visa under subsection 133A(1) or 133C(1) of the Act; or
(b) a document required by subsection 501G(1) of the Act to be given in relation to a decision to:

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(i) cancel a visa under section 501, 501A, 501B, 501BA or 501F of the Act; or

(ii) not revoke a decision to cancel a visa under section 501CA of the Act.

document includes:

(a) a letter; and

(b) an invitation, notice, notification, statement or summons, if it is in writing.

2.55 Giving of documents relating to proposed cancellation, cancellation or revocation of cancellation

When this regulation applies

(1) This regulation applies in relation to the following documents:

(a) a document relating to the proposed cancellation of a visa under the Act;

(b) a document relating to the cancellation of a visa under the Act;

(c) a document relating to the revocation of the cancellation of a visa under the Act;

(d) a document relating to a decision not to revoke the cancellation of a visa under the Act.

(2) However, this regulation does not apply in relation to:

(a) a notice to which section 137J of the Act relates; or

(b) a person who is in immigration detention.

Note: See regulation 5.02.

How to give documents other than designated documents

(3) Subject to subregulation (3A), for a document other than a designated document, the Minister must give the document in one of the following ways:

(a) by handing it to the person personally;

(b) by handing it to another person who:

(i) is at the person's last residential or business address known to the Minister; and

(ii) appears to live there (in the case of a residential address) or work there (in the case of a business address); and

(iii) appears to be at least 16 years of age;

(c) by dating it, and then dispatching it:

(i) within 3 working days (in the place of dispatch) of the date of the document; and

(ii) by prepaid post or by other prepaid means;

to the person's last residential address, business address or post box address known to the Minister;

(d) by transmitting the document by:

(i) fax; or

(ii) email; or

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(iii) other electronic means;

to the last fax number, email address or other electronic address known to the Minister.

(3A) If the person is a minor, the Minister must give a document (other than a designated document) in 1 of the following ways:

(a) by handing it to the minor personally;

(b) by handing it to another person who:

(i) is at the last residential or business address for the minor that is known to the Minister; and

(ii) appears to live there (in the case of a residential address) or work there (in the case of a business address); and

(iii) appears to be at least 16 years of age;

(c) by dating and then dispatching the document:

(i) within 3 working days (in the place of dispatch) of the date of the document; and

(ii) by prepaid post or by other prepaid means;

to the minor's last residential address, business address or post box address known to the Minister;

(d) by transmitting the document by:

(i) fax; or

(ii) email; or

(iii) other electronic means;

to the minor's last fax number, email address or other electronic address known to the Minister;

(e) by dating and then dispatching the document:

(i) within 3 working days (in the place of dispatch) of the date of the document; and

(ii) by prepaid post or by other prepaid means;

to a carer of the minor at the last residential address, business address or post box address for the carer of the minor that is known to the Minister;

(f) by transmitting the document by:

(i) fax; or

(ii) email; or

(iii) other electronic means;

to a carer of the minor at the last fax number, email address or other electronic address for the carer of the minor that is known to the Minister.

How to give designated documents

(4) Subject to subregulation (4A), for a designated document:

(a) if the person has held the visa for less than 1 year when the document is to be given, the Minister must give the document in one of the ways mentioned in subregulation (3); and

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(b) if the person has held the visa for at least 1 year when the document is to be given:
(i) Immigration must try to find the person; and
(ii) the Minister must give the document in one of the ways mentioned in subregulation (3).

(4A) If the person is a minor:
(a) the Minister must give a designated document in 1 of the ways mentioned in subregulation (3A); and
(b) if the minor has held the visa for at least 1 year when the document is to be given, Immigration must try to find the minor.

Document given to carer is taken to be given to minor

(4B) If the Minister gives a document to a carer of the minor in accordance with this regulation, the Minister is taken to have given the document to the minor.

(4C) Nothing in subregulation (4B) prevents the Minister giving the minor a copy of the document.

When document is taken to be received

(5) If the Minister gives a document to a person by handing it to the person, the person is taken to have received the document when it is handed to the person.

(6) If the Minister gives a document to a person by handing it to another person at a residential or business address, the person is taken to have received the document when it is handed to the other person.

(7) If the Minister gives a document to a person by dispatching it by prepaid post or by other prepaid means, the person is taken to have received the document:
(a) if the document was dispatched from a place in Australia to an address in Australia—7 working days (in the place of that address) after the date of the document; or
(b) in any other case—21 days after the date of the document.

(8) If the Minister gives a document to a person by transmitting it by fax, email or other electronic means, the person is taken to have received the document at the end of the day on which the document is transmitted.

(9) If:
(a) the Minister purports to give a document to a person by a method specified in this regulation but makes an error in doing so; and
(b) the person nonetheless receives the document or a copy of the document;
the Minister is taken to have given the document to the person and the person is taken to have received the document:
(c) at the time specified by this regulation for that method; or
(d) if the person can show that he or she received the document at a later time—at that later time.

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Part 2A—Sponsorship applicable to Division 3A of Part 2 of the Act

Division 2.11—Introductory

2.56 Application

For section 140A of the Act, Division 3A of Part 2 of the Act applies to the following kinds of visa:

(a) the Subclass 401 (Temporary Work (Long Stay Activity)) visa;
(aa) the Subclass 402 (Training and Research) visa;
(b) the Subclass 403 (Temporary Work (International Relations)) visa in the Seasonal Worker Program stream;
(baa) the Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;
(bac) the Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream;
(ba) the Subclass 407 (Training) visa;
(bb) the Subclass 408 (Temporary Activity) visa;
(c) the Subclass 416 (Special Program) visa;
(e) the Subclass 420 (Entertainment) visa;
(k) the Subclass 457 (Temporary Work (Skilled)) visa;
(l) the Subclass 482 (Temporary Skill Shortage) visa;
(m) the Subclass 488 (Superyacht Crew) visa;
(ma) the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
(n) the Subclass 870 (Sponsored Parent (Temporary)) visa.

2.57 Interpretation

(1) In this Part:

Australian organisation means a body corporate, a partnership or an unincorporated association (other than an individual or a sole trader) that is lawfully established in Australia.

competent authority means a Department or regulatory authority that administers or enforces a law that is alleged to have been contravened.

discriminatory recruitment practice means a recruitment practice that directly or indirectly discriminates against a person based on the immigration status or citizenship of the person, other than a practice engaged in to comply with a Commonwealth, State or Territory law.

foreign government agency includes the following:

(a) an organisation:

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(i) that is conducted under the official auspices of a foreign national government; and
(ii) that is operating in Australia;

including foreign tourist and media bureaus, trade offices and other foreign government entities;

(b) a foreign diplomatic or consular mission in Australia;
(c) an organisation:
(i) that is conducted under the official auspices of an international organisation recognised by Australia; and
(ii) that is operating in Australia.

government agency means an agency of the Commonwealth or of a State or Territory.

ineligible sponsor has the meaning given by subregulation 2.60U(2).

meets the conduct requirements has the meaning given by regulation 2.60X.

meets the general sponsor requirements has the meaning given by regulation 2.60V.

meets the outstanding debt requirements has the meaning given by regulation 2.60Y.

meets the partner requirements has the meaning given by regulation 2.60Z.

overseas employer, in relation to a person who applies, or proposes to apply, for a Training and Research (Class GC) visa, means:

(a) a body corporate, or an unincorporated association (other than an individual or sole trader), that conducts activities under the auspices of the government of a foreign country or a province, territory or state of a foreign country; and
(b) a multilateral agency that:
(i) is operating; and
(ii) has operated for a continuous period of 12 months before the date of the application; or
(c) a registered business that:
(i) is conducted by a body corporate or unincorporated association (other than an individual or sole trader) outside Australia; and
(ii) is actively and lawfully operating outside Australia; and
(iii) has actively and lawfully operated outside Australia for a continuous period of 12 months before the date of application; and
(iv) employs the person.

participant costs, for a primary sponsored person in a professional development program conducted by a professional development sponsor, means the costs of:

(a) the primary sponsored person's travel and entry to Australia; and
(b) the primary sponsored person's tuition for the professional development program; and

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(c) the primary sponsored person's accommodation in Australia; and
(d) the primary sponsored person's living expenses in Australia; and
(e) the primary sponsored person's health insurance in Australia; and
(f) the primary sponsored person's return travel from Australia.

passes the income test has the meaning given by regulation 2.60W.

permitted sponsored person: a person (the ***first person***) is a ***permitted sponsored person*** in relation to another person (the ***second person***) if:

(a) the first person is a parent of the second person; or
(b) both of the following apply:
  (i) the first person is a parent of the spouse or de facto partner of the second person;
  (ii) the spouse or de facto partner is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
(c) all of the following apply:
  (i) the first person is a parent of a deceased spouse or de facto partner (the ***deceased partner***) of the second person or a spouse or de facto partner of such a parent;
  (ii) immediately before the death of the deceased partner, the deceased partner was the parent sponsor of the first person;
  (iii) no more than 90 days after the death of the deceased partner, the second person makes an application, in accordance with the process referred to in regulation 2.61A, for approval as a family sponsor of the first person;
  (iv) the first person holds a Subclass 870 (Sponsored Parent (Temporary)) visa.

previously sponsored parent: a person (the ***parent***) is a ***previously sponsored parent*** in relation to another person (the ***sponsoring child***) if the sponsoring child, or a spouse or de facto partner of the sponsoring child, was previously the parent sponsor of the parent.

primary sponsored person:

(a) in relation to a person who is or was approved as a work sponsor in a class of sponsor (the ***approved sponsor***) under subsection 140E(1) of the Act—means:
  (i) a person:
    (A) who holds a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and
    (B) who:
      (I) was last identified in an approved nomination by the approved sponsor; or
      (II) satisfied the primary criteria for the grant of the visa on the basis of the approved sponsor having agreed, in

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writing, to be the approved sponsor in relation to the person; or

(ii) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

(C) whose last substantive visa was a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and

(D) who:

(I) was last identified in an approved nomination by the approved sponsor; or

(II) satisfied the primary criteria for the grant of the visa on the basis of the approved sponsor having agreed, in writing, to be the approved sponsor in relation to the person; or

(b) in relation to a party to a work agreement (other than a Minister) or a former party to a work agreement (other than a Minister)—means:

(i) a person:

(A) who holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(B) who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement; or

(ii) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

(C) whose last substantive visa was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(D) who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement.

professional development agreement means a written agreement between:

(a) a person applying for approval as a professional development sponsor; and

(b) an overseas employer of the person who is intended to be a primary sponsored person.

professional development program means a program that meets the requirements mentioned in subregulation 2.60(2).

secondary sponsored person:

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(a) in relation to a person who is or was approved as a work sponsor in a class of sponsor (the ***approved sponsor***) under subsection 140E(1) of the Act—means:

(i) a person:

(A) who holds a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and

(B) who was granted the visa on the basis of having satisfied the secondary criteria for the grant of the visa; and

(C) either:

(I) who was last identified in an approved nomination by the approved sponsor; or

(II) in relation to whom the approved sponsor was the last person to have agreed, in writing, to the person being a secondary sponsored person in relation to the approved sponsor; or

(ii) a person:

(A) who holds a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and

(B) who is taken, under section 78 of the Act, to have been granted the visa at the time of the person's birth; and

(C) who is a member of the family unit of:

(I) a primary sponsored person who was last identified in an approved nomination by the approved sponsor; or

(II) a primary sponsored person whom the approved sponsor has agreed in writing to be the approved sponsor of; or

(iii) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

(C) whose last substantive visa was a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and

(D) who is taken, under section 78 of the Act, to have been granted the visa at the time of the person's birth; and

(E) who is a member of the family unit of:

(I) a primary sponsored person who was last identified in an approved nomination by the approved sponsor; or

(II) a primary sponsored person whom the approved sponsor has agreed in writing to be the approved sponsor of; or

(iv) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

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(C) whose last substantive visa was a visa of a kind mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa); and

(D) who was granted the visa on the basis of satisfying the secondary criteria for the grant of the visa; and

(E) either:

(I) who was last identified in an approved nomination by the approved sponsor; or

(II) in relation to whom the approved sponsor was the last person to have agreed in writing to the person being a secondary sponsored person in relation to the approved sponsor; or

(b) in relation to a party to a work agreement (other than a Minister) or a former party to a work agreement (other than a Minister)—means:

(i) a person:

(A) who holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(B) who was granted the visa on the basis of having satisfied the secondary criteria for the grant of the visa; and

(C) either:

(I) who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement; or

(II) in relation to whom the party to a work agreement or the former party to a work agreement was the last person to have agreed, in writing, to the person being a secondary sponsored person in relation to the party to a work agreement or the former party to a work agreement; or

(ii) a person:

(A) who holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(B) who is taken, under section 78 of the Act, to have been granted the visa at the time of the person's birth; and

(C) who is a member of the family unit of a primary sponsored person who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement; or

(iii) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

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(C) whose last substantive visa was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(D) who was granted the visa on the basis of satisfying the secondary criteria for the grant of the visa; and

(E) either:

(I) who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement; or

(II) in relation to whom the party to a work agreement or the former party to a work agreement was the last person to have agreed, in writing, to the person being a secondary sponsored person in relation to the party to a work agreement or the former party to a work agreement; or

(iv) a person:

(A) who is in the migration zone; and

(B) who does not hold a substantive visa; and

(C) whose last substantive visa was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(D) who is taken, under section 78 of the Act, to have been granted the visa at the time of the person's birth; and

(E) who is a member of the family unit of a primary sponsored person who was last identified in an approved nomination by the party to a work agreement or the former party to a work agreement.

sponsorship start day for a person means the day on which the person is approved as a family sponsor in relation to the parent sponsor class under subsection 140E(1A) of the Act.

sporting organisation means:

(a) an Australian organisation that administers or promotes sport or sporting events; or

(b) a government agency that administers or promotes sport or sporting events; or

(c) a foreign government agency that administers or promotes sport or sporting events.

Note: ***Approved sponsor*** is defined in subsection 5(1) of the Act.

(3A) In this Part (other than paragraph 2.72(18)(a) or 2.72C(17)(a) or subparagraph 2.79(3)(b)(iii) or 2.79A(3)(a)(iii)), a set of terms and conditions of employment for a person (the ***first set***) is ***less favourable*** than another set of terms and conditions of employment for a person if:

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(a) the earnings provided for in the first set are less than the earnings provided for in the other set; and
(b) there is no substantial contrary evidence that the first set is not less favourable than the other set.

(5) In this Part, a person will perform a ***volunteer role*** if:
(a) the person will not receive remuneration for performing the duties of the position, other than the following:
(i) reimbursement for reasonable expenses incurred by the person in performing the duties;
(ii) prize money; and
(b) the duties would not otherwise be carried out by an Australian citizen or an Australian permanent resident in return for wages.

2.57A Meaning of *earnings*

(1) A person's ***earnings*** include:
(a) the person's wages; and
(b) amounts applied or dealt with in any way on the person's behalf or as the person directs; and
(c) the agreed money value of non-monetary benefits.

(2) However, an employee's ***earnings*** do not include the following:
(a) payments the amount of which cannot be determined in advance;
(b) reimbursements;
(c) contributions to a superannuation fund to the extent that they are contributions to which subregulation (4) applies.

Note: Some examples of payments covered by paragraph (a) are commissions, incentive-based payments and bonuses, and overtime (unless the overtime is guaranteed).

(3) ***Non-monetary benefits*** are benefits other than an entitlement to a payment of money:
(a) to which the employee is entitled in return for the performance of work; and
(b) for which a reasonable money value has been agreed by the employee and the employer.

(4) This subregulation applies to contributions that the employer makes to a superannuation fund to the extent that 1 or more of the following applies:
(a) the employer would have been liable to pay a superannuation guarantee charge under the *Superannuation Guarantee Charge Act 1992* in relation to the person if the amounts had not been so contributed;
(b) the employer is required to contribute to the fund for the employee's benefit in relation to a defined benefit interest (within the meaning of section 292-175 of the *Income Tax Assessment Act 1997*) of the employee;

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(c) the employer is required to contribute to the fund for the employee's benefit under a law of the Commonwealth, or of a State or a Territory.

Note: This definition is based on the definition of ***earnings*** in section 332 of the *Fair Work Act 2009*.

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Division 2.12—Classes of sponsor

2.58 Classes of sponsor

(1) For the purposes of subsection 140E(2) of the Act, the following are classes of sponsor in relation to which a person may be approved as a work sponsor:

(a) a standard business sponsor;

(b) a temporary activities sponsor.

Note: A person (other than a Minister) who is a party to a work agreement is an approved work sponsor and does not need to be approved as a work sponsor under subsection 140E(1) of the Act (see paragraph (b) of the definition of ***approved work sponsor*** in subsection 5(1) of the Act).

(2) For the purposes of subsection 140E(2) of the Act, a parent sponsor is a class of sponsor in relation to which a person may be approved as a family sponsor.

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Division 2.13—Criteria for approval of work sponsor

Note: A person (other than a Minister) who is a party to a work agreement is an approved work sponsor and does not need to be approved as a work sponsor under subsection 140E(1) of the Act (see paragraph (b) of the definition of ***approved work sponsor*** in subsection 5(1) of the Act).

2.59 Criteria for approval as a standard business sponsor

For subsection 140E(1) of the Act, the criterion that must be satisfied for the Minister to approve an application by a person (the ***applicant***) for approval as a standard business sponsor is that the Minister is satisfied that:

(a) the applicant has applied for approval as a standard business sponsor in accordance with the process set out in regulation 2.61; and

(c) the applicant is lawfully operating a business (whether in or outside Australia); and

(f) if the applicant is lawfully operating a business in Australia:

(i) the applicant has attested, in writing, that the applicant has a strong record of, or a demonstrated commitment to, employing local labour; and

(ii) the applicant has declared, in writing, that the applicant will not engage in discriminatory recruitment practices; and

(g) either:

(i) there is no adverse information known to Immigration about the applicant or a person associated with the applicant; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the applicant or a person associated with the applicant; and

(h) if the applicant is lawfully operating a business outside Australia and does not lawfully operate a business in Australia—the applicant is seeking to be approved as a standard business sponsor in relation to a holder of a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa, or an applicant or a proposed applicant (the ***visa applicant***) for a Subclass 482 (Temporary Skill Shortage) visa, and the applicant intends for the visa holder or visa applicant to:

(i) establish, or assist in establishing, on behalf of the applicant, a business operation in Australia with overseas connections; or

(ii) fulfil, or assist in fulfilling, a contractual obligation of the applicant.

2.60 Criterion for approval as a temporary activities sponsor

For the purposes of subsection 140E(1) of the Act, the criterion that must be satisfied for the Minister to approve a person (the ***applicant***) as a temporary activities sponsor is that the Minister is satisfied that:

(a) the applicant has applied for approval as a temporary activities sponsor in accordance with the process referred to in regulation 2.61; and

(b) the applicant is not already a temporary activities sponsor; and

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(c) the applicant is:
  (i) an Australian organisation that is lawfully operating in Australia; or
  (ii) a government agency; or
  (iii) a foreign government agency; or
  (iv) a sporting organisation that is lawfully operating in Australia; or
  (v) a religious institution that is lawfully operating in Australia; or
  (vi) a person who is the captain or owner of a superyacht, or an organisation that operates a superyacht; or
  (vii) a foreign organisation that is lawfully operating in Australia; and

(d) either:
  (i) there is no adverse information known to Immigration about the applicant or a person associated with the applicant; or
  (ii) it is reasonable to disregard any adverse information known to Immigration about the applicant or a person associated with the applicant; and

(e) the applicant has the capacity to comply with the sponsorship obligations applicable to a person who is or was a temporary activities sponsor.

2.60S Additional criteria for all classes of work sponsor—transfer, recovery and payment of costs

(1) For subsection 140E(1) of the Act, the criteria in this regulation are in addition to the criteria in regulations 2.59 and 2.60.

(2) The criteria that must be satisfied for the Minister to approve an application by a person (the ***applicant***) for approval as a work sponsor mentioned in any of regulations 2.59 and 2.60 include a criterion that the Minister is satisfied that:

(a) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, associated with the applicant becoming an approved work sponsor; and

(b) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, associated with the applicant becoming an approved work sponsor; and

(ba) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); and

(bb) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); and

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(c) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(d) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(e) if the applicant has agreed to be the work sponsor of an applicant for, a proposed applicant for, or a holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(f) if the applicant has agreed to be the work sponsor of an applicant for, a proposed applicant for, or a holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(3) The criteria that must be satisfied for the Minister to approve an application by a person (the ***applicant***) for approval as a work sponsor mentioned in any of regulations 2.59 and 2.60 include a criterion that the Minister is satisfied that:

(a) the applicant has not recovered from another person some or all of the costs, including migration agent costs:

(i) associated with the person becoming an approved work sponsor; or

(ia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or

(ii) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(b) the applicant has not sought to recover from another person some or all of the costs, including migration agent costs:

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(i) associated with the person becoming an approved work sponsor; or

(ia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or

(ii) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(c) if the applicant has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not recovered from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(d) if the applicant has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not sought to recover from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(4) However, the Minister may disregard a criterion referred to in subregulation (2) or (3) if the Minister considers it reasonable to do so.

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Division 2.13A—Criteria for approval of family sponsor

2.60T Purpose of Division

This Division is made for the purposes of subsection 140E(1A) of the Act.

2.60U Criteria for approval as a parent sponsor

(1) If a person applies for approval as a family sponsor in relation to the parent sponsor class, the Minister must approve the applicant as a family sponsor in relation to that class if the Minister is satisfied that:
  (a) the applicant is not an ineligible sponsor; and
  (b) the application was made in accordance with the process referred to in regulation 2.61A; and
  (c) subject to subregulations (3) and (4) of this regulation, the application specifies no more than 2 persons as persons whom the applicant intends to sponsor; and
  (d) those specified persons are permitted sponsored persons in relation to the applicant; and
  (e) the applicant meets the general sponsor requirements (see regulation 2.60V); and
  (f) the applicant passes the income test (see regulation 2.60W); and
  (g) the applicant meets the conduct requirements (see regulation 2.60X); and
  (h) the applicant meets the outstanding debt requirements (see regulation 2.60Y); and
  (i) if the applicant has a spouse or de facto partner—the spouse or de facto partner meets the partner requirements (see regulation 2.60Z).

Ineligible sponsor

(2) The applicant is an ***ineligible sponsor*** if:
  (a) 3 or more previously sponsored parents in relation to the applicant were granted Subclass 870 (Sponsored Parent (Temporary)) visas; and
  (b) at least 3 of those parents:
    (i) have not left Australia since their Subclass 870 (Sponsored Parent (Temporary)) visas ceased to be in effect; and
    (ii) do not hold permanent visas.

One previously sponsored parent in Australia

(3) If:
  (a) one or more previously sponsored parents in relation to the applicant were granted a Subclass 870 (Sponsored Parent (Temporary)) visa; and
  (b) that parent or one of those parents:
    (i) has not left Australia since their Subclass 870 (Sponsored Parent (Temporary)) visa ceased to be in effect; and

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(ii) does not hold a permanent visa;

the application must not specify 2 persons as persons whom the applicant intends to sponsor unless one of those specified persons is the parent referred to in paragraph (b).

Two previously sponsored parents in Australia

(4) If:

(a) 2 or more previously sponsored parents in relation to the applicant were granted Subclass 870 (Sponsored Parent (Temporary)) visas; and

(b) 2 of those parents:

(i) have not left Australia since their Subclass 870 (Sponsored Parent (Temporary)) visas ceased to be in effect; and

(ii) do not hold permanent visas;

the application must not specify persons as persons whom the applicant intends to sponsor unless those specified persons are one or both of the parents referred to in paragraph (b).

2.60V When an applicant meets the general sponsor requirements

An applicant for approval as a family sponsor in relation to the parent sponsor class ***meets the general sponsor requirements*** if:

(a) the applicant is at least 18; and

(b) the applicant has satisfied the Minister as to the applicant's identity; and

(c) the applicant is an Australian citizen or all of the following apply:

(i) the applicant is an Australian permanent resident or an eligible New Zealand citizen;

(ii) the applicant has been usually resident in Australia for at least the 4 years immediately before the day the application is made;

(iii) at no time during those 4 years has the applicant been an unlawful non-citizen or the holder of a bridging visa (other than a Bridging A (Class WA), Bridging B (Class WB) or Bridging C (Class WC) visa); and

(d) the applicant has agreed that information about the applicant provided in relation to the application may be disclosed to any permitted sponsored person in relation to the applicant who is specified in the application.

2.60W When an applicant passes the income test

Applicant's taxable income only

(1) An applicant for approval as a family sponsor in relation to the parent sponsor class ***passes the income test*** if the applicant's taxable income, for the income year or each of the income years specified in an instrument under subregulation (4), is at least equal to the amount specified in such an instrument.

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Applicant's taxable income combined with other taxable incomes

(2) An applicant for approval as a family sponsor in relation to the parent sponsor class ***passes the income test*** if:

(a) the sum of:

(i) the taxable income of the applicant; and

(ii) any taxable income of either or both of the persons specified in subregulation (3);

for the income year or each of the income years specified in an instrument under subregulation (4), is at least equal to the amount specified in such an instrument; and

(b) the taxable income of the applicant, for that year or each of those years, is at least equal to half of that amount.

(3) The following persons are specified for the purposes of subparagraph (2)(a)(ii):

(a) the spouse or de facto partner of the applicant;

(b) one child of a permitted sponsored person in relation to the applicant if:

(i) that permitted sponsored person is specified in the application; and

(ii) that child is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Specified amounts and years

(4) The Minister may, by legislative instrument, specify:

(a) an amount or amounts for the purposes of subregulations (1) and (2); and

(b) an income year or income years for the purposes of subregulations (1) and (2).

Definitions

(5) In this regulation:

income year has the meaning given by the *Income Tax Assessment Act 1997*.

taxable income has the meaning given by the *Income Tax Assessment Act 1997*.

2.60X When an applicant meets the conduct requirements

(1) An applicant for approval as a family sponsor in relation to the parent sponsor class ***meets the conduct requirements*** if:

(a) either:

(i) the applicant complies with subregulation (2); or

(ii) it is reasonable to disregard the applicant's failure to do so; and

(b) either:

(i) there is no adverse information known to Immigration about the applicant or a person associated with the applicant; or

(ii) it is reasonable to disregard any such information; and

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(c) in the case where the applicant has previously been a parent sponsor—either:

(i) the applicant has not failed to satisfy a sponsorship obligation under Subdivision 2.19.2 (which deals with sponsorship obligations of approved family sponsors etc.); or

(ii) it is reasonable to disregard any such failure.

(2) An applicant complies with this subregulation if:

(a) in the case where the applicant spent more than 12 months cumulatively in a foreign country since the later of the day that is 10 years before the day the application is made and the day the applicant turned 16—the applicant provides a police check relating to whether the applicant has committed any offences in the foreign country; and

(b) in the case where the applicant has spent more than 12 months cumulatively in Australia since the later of the day that is 10 years before the day the application is made and the day the applicant turned 16—the applicant provides an Australian Federal Police check.

2.60Y When a person meets the outstanding debt requirements

(1) An applicant for approval as a family sponsor in relation to the parent sponsor class ***meets the outstanding debt requirements*** if both subregulations (2) and (3) apply.

Outstanding public health debts

(2) This subregulation applies if:

(a) none of the following persons have an outstanding public health debt:

(i) the applicant;

(ii) if the applicant has a spouse or de facto partner—the spouse or de facto partner;

(iii) a permitted sponsored person in relation to the applicant who is specified in the application;

(iv) a previously sponsored parent (if any) in relation to the applicant; or

(b) both of the following apply:

(i) any one or more of the persons mentioned in paragraph (a) has an outstanding public health debt;

(ii) each such debt has been paid in full or appropriate arrangements have been made for its payment.

Outstanding debts to the Commonwealth

(3) This subregulation applies if:

(a) the applicant does not have any outstanding debts to the Commonwealth; or

(b) appropriate arrangements have been made for payment of all of the applicant's outstanding debts to the Commonwealth.

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2.60Z When a person meets the partner requirements

A person (the ***partner***) who is the spouse or de facto partner of an applicant for approval as a family sponsor in relation to the parent sponsor class ***meets the partner requirements*** if:

(a) the partner is not a parent sponsor; and

(b) in the case where the partner has previously been a parent sponsor—either:

(i) the partner has not failed to satisfy a sponsorship obligation under Subdivision 2.19.2 (which deals with the sponsorship obligations of approved family sponsors etc.); or

(ii) it is reasonable to disregard any such failure.

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Division 2.14—Application for approval as a sponsor

2.61 Application for approval as a work sponsor

(1) For the purposes of subsection 140F(1) of the Act, a person may apply to the Minister for approval as a work sponsor, in relation to a class of sponsor specified in subregulation 2.58(1), in accordance with the process set out in this regulation.

Note: A person (other than a Minister) who is a party to a work agreement is an approved work sponsor and does not need to be approved as a work sponsor under subsection 140E(1) of the Act (see paragraph (b) of the definition of ***approved work sponsor*** in subsection 5(1) of the Act).

(3A) If a person makes an application for approval as a standard business sponsor or a temporary activities sponsor:

(a) the application must be made using the internet; and

(b) if the application is for approval as a standard business sponsor—the application must be made using:

(i) if, at the time the application is made, the applicant is a standard business sponsor other than an overseas business sponsor—the form specified by the Minister in a legislative instrument made for the purposes of this subparagraph; or

(ii) in any other case—the form specified by the Minister in a legislative instrument made for the purposes of this subparagraph; and

(ba) if the application is for approval as a temporary activities sponsor—the application must be made using the form specified by the Minister in a legislative instrument made for the purposes of this paragraph; and

(c) the application must be accompanied by the fee specified by the Minister in an instrument in writing for this paragraph.

(3B) For subregulation (3A):

(a) if the Minister specifies in an instrument in writing for this subregulation a different way of making an application for approval as a standard business sponsor or a temporary activities sponsor, in circumstances specified in the instrument, the application may be made in that way; and

(b) if the Minister specifies in the instrument a form for the different way of making the application, the application must be made using that form; and

(c) if the Minister specifies in the instrument a different application fee for making the application, the application must be accompanied by that fee.

Note: Subregulation (3A) relates to making applications on the internet. It may be necessary for the Minister to specify arrangements other than those in subregulation (3A) if special circumstances exist.

(4) The Minister may refund the fee for an application for approval as a standard business sponsor if:

(a) the application is made because of a mistake by Immigration; and

(b) the Minister:

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(i) receives a written request for a refund from the person who paid the fee; or

(ii) considers it is reasonable in the circumstances to refund the amount to the person who paid the fee without receiving a written request for a refund.

(5) A refund under subregulation (4) must be paid to the person who paid the fee.

(6) A refund under subregulation (4) may be paid:

(a) in Australian currency; or

(b) if the fee in respect of which the refund is being paid was paid in another currency, in that other currency.

2.61A Application for approval as family sponsor

(1) For the purposes of subsection 140F(1) of the Act, a person may apply to the Minister for approval as a family sponsor, in relation to a class of sponsor specified in subregulation 2.58(2), in accordance with the process set out in this regulation.

(2) An application for approval as a family sponsor:

(a) must not be made by a person who is an approved family sponsor; and

(b) must not be made by a person at a particular time if:

(i) the person, or the spouse or de facto partner of the person, has previously made such an application; and

(ii) at that time, that application has not been finally determined; and

(c) must not be made after a day, or during a period, specified in an instrument under subregulation (4).

(3) An application for approval as a family sponsor:

(a) must be made using the internet; and

(b) must be made using the form specified in an instrument under subregulation (4); and

(c) must be accompanied by the fee specified in an instrument under subregulation (4).

(4) The Minister may, by legislative instrument, specify any or all of the following:

(a) a day, or a period, for the purposes of paragraph (2)(c);

(b) a form for the purposes of paragraph (3)(b);

(c) a fee for the purposes of paragraph (3)(c).

2.62 Notice of decision

(1) If the Minister makes a decision under subsection 140E(1) of the Act about an application for approval as a work sponsor, the Minister must give written notice of the decision to the applicant:

(a) within a reasonable period after making the decision; and

(b) by attaching a written copy of the approval or refusal; and

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(c) if the decision is a refusal—by attaching a statement of reasons for the refusal.

(1A) If the Minister makes a decision under subsection 140E(1A) of the Act about an application for approval as a family sponsor, the Minister must give written notice of the decision to the applicant:

(a) within a reasonable period after making the decision; and

(b) by attaching a written copy of the decision; and

(c) if the decision is to refuse the application—by attaching a statement of reasons for the decision.

(2) The Minister may provide notification to an applicant under subregulation (1) or (1A) in an electronic form.

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Division 2.15—Terms of approval of sponsorship

2.63 Temporary activities sponsor or temporary work sponsor

(1) For subsection 140G(2) of the Act, a kind of term of an approval as a temporary activities sponsor or temporary work sponsor is the duration of the approval.

(2) The duration of the approval may be specified:
  (a) as a period of time; or
  (b) as ending on a particular date; or
  (c) as ending on the occurrence of a particular event.

2.63A Standard business sponsor

(1) For the purposes of subsection 140G(3) of the Act, the terms of an approval of a person as a standard business sponsor are prescribed in this regulation.

(2) An approval as a standard business sponsor starts:
  (a) on the day on which the approval is granted; or
  (b) if, immediately before the day on which the approval is granted, the person was because of an earlier approval a standard business sponsor other than an overseas business sponsor—immediately after the earlier approval ceases.

(3) However, an approval as a standard business sponsor does not start if:
  (a) immediately before the day on which the approval is granted, the person was because of an earlier approval a standard business sponsor other than an overseas business sponsor; and
  (b) before the time at which the approval would otherwise start, the person's approval as a standard business sponsor is cancelled.

(4) An approval as a standard business sponsor ceases:
  (a) if, immediately after the approval starts, the person is an overseas business sponsor—on the earlier of the following:
    (i) the start of a later approval of the person as a standard business sponsor;
    (ii) 5 years after the day on which the approval is granted; or
  (b) in any other case—5 years after the day on which the approval is granted.

2.64 Professional development sponsor

(1) For subsection 140G(3) of the Act, the terms of approval as a professional development sponsor are prescribed in this regulation.

(2) An approval as a professional development sponsor has effect only in relation to:

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(a) the professional development program specified in the application for approval, as varied from time to time by agreement between the professional development sponsor and the Secretary; and
(b) the professional development agreement or agreements specified in the application for approval; and
(c) the overseas employer or employers specified in the application for approval.

(3) An approval as a professional development sponsor ceases on the earlier of:
(a) 3 years after the day on which the approval is granted; and
(b) the day on which the professional development agreement specified in the application for approval ends.

2.64A Special program sponsor

(1) For subsection 140G(3) of the Act, the terms of approval as a special program sponsor are prescribed in this regulation.

(2) An approval as a special program sponsor has effect only in relation to:
(a) the special program specified in the application for approval, as varied from time to time by agreement between the special program sponsor and the Secretary; and
(b) the special program agreement or agreements specified in the application for approval, as varied from time to time by agreement between the special program sponsor and the Secretary; and
(c) the employer or employers specified in the application for approval; and
(d) if a special program is agreed by the sponsor and the Secretary subsequent to the approval—the special program that will operate for the duration of the approval, as varied from time to time by agreement between the special program sponsor and the Secretary; and
(e) if a special program agreement is agreed by the sponsor and the Secretary subsequent to the approval—the agreement that will operate within the duration of the approval, as varied from time to time by agreement between the special program sponsor and the Secretary.

2.64B Parent sponsor

(1) For the purposes of subsection 140G(2) of the Act, an approval of a person as a parent sponsor has effect only in relation to a permitted sponsored person specified in the approval.

(2) For the purposes of subsection 140G(3) of the Act, an approval of a person as the parent sponsor of a permitted sponsored person specified in the approval ceases to have effect if:
(a) any permanent visa held by the parent sponsor is cancelled; or
(b) the parent sponsor dies; or
(c) Immigration receives notification, in writing, of the withdrawal by the parent sponsor of his or her sponsorship of the specified person; or

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(d) the specified permitted sponsored person fails to apply for a Subclass 870 (Sponsored Parent (Temporary)) visa before the end of the period of 6 months starting on:
  (i) if a term of the approval of the parent sponsor has been varied so that the approval also has effect in relation to that person—the day the variation is made; or
  (ii) otherwise—the sponsorship start day for the parent sponsor; or
(e) the Subclass 870 (Sponsored Parent (Temporary)) visa held by the specified permitted sponsored person ceases to have effect.

(3) To avoid doubt, if:
(a) the approval as a parent sponsor has effect in relation to 2 permitted sponsored persons specified in the approval; and
(b) an event mentioned in paragraph (2)(c), (d) or (e) happens in relation to only one of those persons;
the approval continues to have effect in relation to the other person.

(4) Subregulations (2) and (3) do not limit Division 2.20 of this Part (which is about circumstances in which an approved sponsor may be barred or an approved sponsor's approval may be cancelled).

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Division 2.16—Variation of terms of approval of sponsorship

2.65 Application of this Division

This Division applies in relation to an approval as:

(a) a temporary activities sponsor; or

(b) a parent sponsor.

2.66 Process to apply for variation of terms of approval

(1) For subsection 140GA(1) of the Act, a person may apply to the Minister for a variation of a term of an approval as a temporary activities sponsor or a parent sponsor in accordance with the process set out in this regulation.

(2) The application must be made using the internet.

(3) The application must be made using the form specified by the Minister in an instrument in writing for this subregulation.

(4) The application must be accompanied by the fee specified by the Minister in an instrument in writing for this subregulation.

(5) For subregulations (2) to (4):

(a) if the Minister specifies in an instrument in writing for this subregulation a different way of making an application for a variation of a term of an approval as a temporary activities sponsor or a parent sponsor, in circumstances specified in the instrument, the application may be made in that way; and

(b) if the Minister specifies in the instrument a form for the different way of making the application, the application must be made using that form; and

(c) if the Minister specifies in the instrument a different application fee for making the application, the application must be accompanied by that fee.

Note: Subregulation (2) relates to making applications on the internet. It may be necessary for the Minister to specify arrangements other than those in subregulations (2) to (4) if special circumstances exist.

2.67 Terms of approval that may be varied

(1) For paragraph 140GA(2)(a) of the Act, a term of approval as a temporary activities sponsor that may be varied is the duration of the approval.

(2) For the purposes of paragraph 140GA(2)(a) of the Act, the term set out in subregulation 2.64B(1) is a term of an approval as a parent sponsor that may be varied.

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2.68A Criteria for variation of terms of approval—temporary activities sponsor

For the purposes of paragraph 140GA(2)(b) of the Act, the criteria that must be satisfied for the Minister to vary a term of a person's approval as a temporary activities sponsor are that the Minister is satisfied that:

(a) the person satisfies the criterion for approval as a temporary activities sponsor set out in regulation 2.60; and

(b) the person has applied for the variation in accordance with the process referred to in regulation 2.66.

Note: The criteria in regulation 2.68J, relating to transfer, recovery and payment of costs, must also be satisfied.

2.68J Additional criteria for variation of terms of approval—transfer, recovery and payment of costs

(1) For paragraph 140GA(2)(b) of the Act, the criteria in this regulation are in addition to the criteria in regulation 2.68A.

(2) The criteria that must be satisfied for the Minister to vary a term of an approval of a person (the ***applicant***) as a work sponsor mentioned in regulation 2.68A include a criterion that the Minister is satisfied that:

(a) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, associated with the applicant becoming an approved work sponsor; and

(b) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, associated with the applicant becoming an approved work sponsor; and

(ba) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73A(3) or nomination training contribution charge); and

(bb) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73A(3) or nomination training contribution charge); and

(c) the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(d) the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, that relate specifically to the

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recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(e) if the applicant has agreed to be the work sponsor of an applicant for, a proposed applicant for, or a holder of:
  (i) a Subclass 402 (Training and Research) visa; or
  (ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
  (ib) a Subclass 408 (Temporary Activity) visa; or
  (ii) a Subclass 416 (Special Program) visa; or
  (iii) a Subclass 488 (Superyacht Crew) visa;

  the applicant has not taken any action, and has not sought to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(f) if the applicant has agreed to be the work sponsor of an applicant for, a proposed applicant for, or a holder of:
  (i) a Subclass 402 (Training and Research) visa; or
  (ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
  (ib) a Subclass 408 (Temporary Activity) visa; or
  (ii) a Subclass 416 (Special Program) visa; or
  (iii) a Subclass 488 (Superyacht Crew) visa;

  the applicant has not taken any action, and has not sought to take any action, that would result in another person paying to a person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(3) The criteria that must be satisfied for the Minister to vary a term of an approval of a person (the ***applicant***) as a work sponsor mentioned in regulation 2.68A include a criterion that the Minister is satisfied that:

(a) the applicant has not recovered from another person some or all of the costs, including migration agent costs:
  (i) associated with the person becoming an approved work sponsor; or
  (ia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73A(3) or nomination training contribution charge); or
  (ii) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(b) the applicant has not sought to recover from another person some or all of the costs, including migration agent costs:
  (i) associated with the person becoming an approved work sponsor; or
  (ia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73A(3) or nomination training contribution charge); or
  (ii) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(c) if the applicant has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:

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(i) a Subclass 402 (Training and Research) visa; or
(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
(ib) a Subclass 408 (Temporary Activity) visa; or
(ii) a Subclass 416 (Special Program) visa; or
(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not recovered from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(d) if the applicant has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:
(i) a Subclass 402 (Training and Research) visa; or
(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
(ib) a Subclass 408 (Temporary Activity) visa; or
(ii) a Subclass 416 (Special Program) visa; or
(iii) a Subclass 488 (Superyacht Crew) visa;

the applicant has not sought to recover from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(4) However, the Minister may disregard a criterion referred to in subregulation (2) or (3) if the Minister considers it reasonable to do so.

2.68K Criteria for variation of terms of approval—parent sponsor

(1) This regulation is made for the purposes of paragraph 140GA(2)(b) of the Act.

(2) If a parent sponsor applies for a variation of the term of the parent sponsor's approval that is referred to in subregulation 2.64B(1), the Minister must vary the term if the Minister is satisfied that:
(a) the parent sponsor has applied for the variation in accordance with the process referred to in regulation 2.66; and
(b) the approval of the parent sponsor has effect in relation to only one specified person (the ***currently sponsored parent***); and
(c) the effect of the variation will be that the approval will have effect in relation to a second specified person (the ***additional parent***) who is a permitted sponsored person in relation to the parent sponsor; and
(d) one or more of the following applies in relation to each previously sponsored parent (if any) in relation to the parent sponsor:
(i) the parent is the additional parent;
(ii) the parent holds a permanent visa;
(iii) the parent held a Subclass 870 (Sponsored Parent (Temporary)) visa that has ceased to be in effect and has left Australia; and
(e) either:
(i) none of the persons specified in subregulation (3) have an outstanding public health debt; or

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(ii) if any one or more of those persons have an outstanding public health debt, each such debt has been paid in full or appropriate arrangements have been made for its payment; and

(f) the parent sponsor has agreed that information about the parent sponsor provided in relation to the application may be disclosed to the additional parent; and

(g) either:

(i) there is no adverse information known to Immigration about the parent sponsor or a person associated with the parent sponsor; or

(ii) it is reasonable to disregard any such information; and

(h) either:

(i) the parent sponsor has not failed to satisfy a sponsorship obligation under Subdivision 2.19.2 (which deals with sponsorship obligations of approved family sponsors etc.) relating to the parent sponsor's sponsorship of the currently sponsored parent; or

(ii) it is reasonable to disregard any such failure.

(3) The following persons are specified for the purposes of paragraph (2)(e):

(a) the parent sponsor;

(b) if the parent sponsor has a spouse or de facto partner—the spouse or de facto partner;

(c) the currently sponsored parent;

(d) the additional parent;

(e) a previously sponsored parent (if any) in relation to the parent sponsor.

(4) If the Minister varies the term, the additional parent is taken to be specified in the approval for the purposes of the Act and these Regulations.

2.69 Notice of decision

(1) If the Minister makes a decision about varying a term of a person's approval as a work sponsor or family sponsor under subsection 140GA(2) of the Act, the Minister must give written notice of the decision to the person:

(a) within a reasonable period after making the decision; and

(b) by attaching a written copy of the decision to vary or not to vary the term of the approval; and

(c) if the decision is not to vary the term of the approval—by attaching a statement of reasons for the decision.

(2) The Minister may provide the notification to the applicant in an electronic form.

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Division 2.17—Nominations

2.70 Application

This Division applies in relation to the following:

(a) a person who is, or who has applied to be:
  (i) a standard business sponsor; or
  (ii) a temporary work sponsor (other than a special program sponsor or a superyacht crew sponsor); or
  (iii) a temporary activities sponsor;

(b) a person who is:
  (i) a party to a work agreement (other than a Minister); or
  (ii) a party to negotiations for a work agreement (other than a Minister).

2.72 Criteria for approval of nomination—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa

Application of this regulation

(1) This regulation applies in relation to a person who:
  (a) is any of the following:
    (i) a standard business sponsor;
    (ii) a person who has applied to be a standard business sponsor;
    (iii) a party to a work agreement (other than a Minister);
    (iv) a party to negotiations for a work agreement (other than a Minister); and
  (b) under paragraph 140GB(1)(b) of the Act, nominates a proposed occupation in relation to any of the following (the ***nominee***):
    (i) a holder of a Subclass 457 (Temporary Work (Skilled)) visa;
    (ii) a holder of a Subclass 482 (Temporary Skill Shortage) visa;
    (iii) an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

(2) For the purposes of paragraph 140GB(2)(b) of the Act, the criteria set out in this regulation are prescribed.

Note: In addition, subsection 140GB(2) of the Act requires the person to be an approved work sponsor and to have paid any nomination training contribution charge in relation to the nomination.

General

(3) The Minister is satisfied that the person made the nomination in accordance with the process set out in regulation 2.73.

(4) The Minister is satisfied that either:

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(a) there is no adverse information known to Immigration about the person or a person associated with the person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person or a person associated with the person.

(5) The Minister is satisfied that:

(a) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream—the person is a standard business sponsor; or

(b) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream:

(i) the person is a party to a work agreement (other than a Minister); and

(ii) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa.

(5A) The Minister is satisfied that any debt due by the person as mentioned in section 140ZO of the Act (recovery of nomination training contribution charge and late payment penalty) has been paid in full.

Information to be provided as part of nomination

(6) If the nominee holds:

(a) a Subclass 457 (Temporary Work (Skilled)) visa; or

(b) a Subclass 482 (Temporary Skill Shortage) visa;

the Minister is satisfied that the person has listed on the nomination each other holder of either of those kinds of visa who was granted the visa on the basis of having the necessary relationship with the nominee as mentioned in clause 457.321 of Schedule 2 (as in force before 18 March 2018) or subclause 482.312(1) of Schedule 2.

(7) However, the Minister may disregard the fact that one or more persons required to be listed on the nomination are not listed, if the Minister is satisfied it is reasonable in the circumstances to do so.

Nominated occupation

(8) The Minister is satisfied that:

(a) the occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified in:

(i) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream—the instrument made under subregulation (9) in force at the time the nomination is made; or

(ii) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream—the work agreement; and

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(b) the occupation applies to the nominee in accordance with the instrument or work agreement.

(9) The Minister may, by legislative instrument, specify occupations and, for each occupation:

(a) whether the occupation is:

(i) a short term skilled occupation; or

(ii) a medium and long term strategic skills occupation; and

(b) either:

(i) the 6-digit ANZSCO code for the occupation; or

(ii) if there is no 6-digit ANZSCO code for the occupation—a 6-digit code for the occupation; and

(c) if there is no 6-digit ANZSCO code for the occupation—tasks, qualifications and experience for the occupation; and

(d) any matters for the purpose of determining whether the occupation applies to a nominee, including matters relating to any of the following:

(i) the person who nominated the occupation;

(ii) the nominee;

(iii) the occupation;

(iv) the position in which the nominee is to work;

(v) the circumstances in which the occupation is undertaken;

(vi) the circumstances in which the nominee is to be employed in the position.

(10) The Minister is satisfied that the position associated with the occupation is:

(a) genuine; and

(b) a full-time position.

(10A) However, the Minister may disregard the criterion in paragraph (10)(b) if the Minister is satisfied that it is reasonable in the circumstances to do so.

Additional requirements in relation to Short-term stream and Medium-term stream

(11) If:

(a) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream; and

(b) the person is not an overseas business sponsor; and

(c) the occupation is not an occupation specified by the Minister in an instrument made under subregulation (13);

the Minister is satisfied that:

(d) the nominee will be engaged only as an employee under a written contract of employment by the person or an associated entity of the person (the ***employer***); and

(e) the person will give the Minister a copy of the contract signed by the employer and the nominee.

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(12) If:

(a) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream; and

(b) the person is an overseas business sponsor; and

(c) the occupation is not an occupation specified by the Minister in an instrument made under subregulation (13);

the Minister is satisfied that:

(d) the nominee will be engaged only as an employee under a written contract of employment by the person; and

(e) the person will give the Minister a copy of the contract signed by the person and the nominee.

(13) The Minister may, by legislative instrument, specify occupations for the purposes of paragraphs (11)(c) and (12)(c), subregulation 2.73(13), paragraphs 2.73(14)(c), 2.86(2A)(b) and (2AA)(ab) and 5.19(5)(g), subregulation 5.19(7), clauses 482.224 and 482.233 of Schedule 2 and paragraph 8607(3)(a) of Schedule 8.

(14) If:

(a) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream; and

(b) the nominee holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and

(c) the Minister requested the person to provide evidence that the nominee satisfies the language test requirements;

the person has provided evidence to the Minister that the nominee satisfies:

(d) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream—any language test requirements specified by the Minister in a legislative instrument for clause 482.223 of Schedule 2 that would apply to the nominee if the nominee were an applicant for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream; or

(e) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream—any language test requirements specified by the Minister in a legislative instrument for clause 482.232 of Schedule 2 that would apply to the nominee if the nominee were an applicant for a Subclass 482 (Temporary Skill Shortage) visa in the Medium-term stream.

(15) Subject to subregulation (16), if:

(a) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream; and

(b) the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified by the Minister in a legislative instrument made for the purposes of this paragraph;

the Minister is satisfied that:

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(c) the annual market salary rate for the occupation has been determined by the person in accordance with the instrument made under subregulation (17); and

(d) the annual market salary rate, excluding any non-monetary benefits, for the occupation (determined by the person in accordance with an instrument made under subregulation (17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of this paragraph; and

(e) the nominee's annual earnings in relation to the occupation will not be less than the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation (17)); and

(f) the nominee's annual earnings, excluding any non-monetary benefits, in relation to the occupation will not be less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph (d); and

(g) either:

(i) there is no information known to Immigration that indicates that the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation (17)) is inconsistent with Australian labour market conditions relevant to the occupation; or

(ii) it is reasonable to disregard any such information.

(16) However:

(a) the Minister may disregard the criterion in paragraph (15)(d) if the Minister is satisfied that:

(i) the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation (17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph (15)(d); and

(ii) it is reasonable in the circumstances to do so; and

(aa) the Minister may disregard the criterion in paragraph (15)(e) if:

(i) under subregulation (10A), the Minister disregards the criterion in paragraph (10)(b) in relation to the position associated with the occupation; and

(ii) the Minister is satisfied that it is reasonable in the circumstances to do so; and

(b) the Minister may disregard the criterion in paragraph (15)(f) if the Minister is satisfied that it is reasonable in the circumstances to do so.

(17) The Minister may, by legislative instrument, specify a method for determining the annual market salary rate for an occupation nominated under section 140GB of the Act or an occupation in relation to which a position is nominated under regulation 5.19.

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(18) If the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, the Minister is satisfied that:

(a) either:

(i) there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply to the nominee are less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or

(ii) it is reasonable to disregard any such information; and

(b) if the person is lawfully operating a business in Australia—the person has not engaged in discriminatory recruitment practices.

Additional requirements in relation to Labour Agreement stream

(19) If the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream, the Minister is satisfied that:

(a) the occupation is specified in the work agreement as an occupation that the person may nominate; and

(b) if the work agreement specifies requirements that must be met by the party to the work agreement—the requirements of the work agreement have been met; and

(c) the number of nominations in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas made by the person and approved by the Minister under section 140GB of the Act is less than the number of approved nominations in relation to those types of visa permitted under the work agreement for the year.

2.72AA Labour market testing

For paragraph 140GBA(1)(a) of the Act, the class of standard business sponsors is a prescribed class of approved sponsor.

2.72A Criteria for approval of nomination—Subclass 407 (Training) visa

(1) This regulation applies to a person (the ***sponsor***):

(a) who is, or has applied to be, a temporary activities sponsor; and

(b) who has nominated, under paragraph 140GB(1)(b) of the Act, a program of occupational training (the ***nominated program***) in relation to a holder of, or an applicant or proposed applicant for, a Subclass 407 (Training) visa (the ***nominee***).

(2) For the purposes of subsection 140GB(2) of the Act, the criteria that must be satisfied for the Minister to approve the nomination are the criteria set out in this regulation.

(3) The Minister is satisfied that the sponsor is a temporary activities sponsor.

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(4) The Minister is satisfied that the sponsor made the nomination in accordance with regulation 2.73A.

(5) The Minister is satisfied that the nominee will participate in the nominated program.

(6) If the nominee holds a visa, the Minister is satisfied that the sponsor has listed on the nomination each secondary sponsored person who holds the same visa as the nominee on the basis of the secondary sponsored person's relationship to the nominee.

(7) However, the Minister may disregard the fact that one or more secondary sponsored persons are not listed on the nomination if the Minister is satisfied that it is reasonable in the circumstances to do so.

(8) The Minister is satisfied that the sponsor has provided the following:
  (a) information that identifies the employer or employers in relation to the nominated program, including:
    (i) the location and contact details of each employer; and
    (ii) if the sponsor and the employer are not the same person—the relationship between the sponsor and the employer;
  (b) information that identifies the location or locations where the nominated program will be carried out;
  (c) information that identifies each member of the family unit of the nominee who holds, or proposes to apply for, the same visa as the nominee on the basis of satisfying the secondary criteria.

(9) For the purposes of paragraph (8)(a), if undertaking the nominated program is a volunteer role (within the meaning given by subregulation 2.57(5)), ***employer*** includes the person or organisation responsible for the tasks to be carried out as part of the nominated program.

(10) The Minister is satisfied that the sponsor has certified, in writing and as part of the nomination, whether or not the sponsor has engaged in conduct in relation to the nomination that constitutes a contravention of subsection 245AR(1) of the Act.

(11) The Minister is satisfied that:
  (a) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or
  (b) if any adverse information is known to Immigration about the sponsor or a person associated with the sponsor—it is reasonable to disregard the information.

(12) The Minister is satisfied that:
  (a) the occupational training will be provided directly by the sponsor; or
  (b) the sponsor is supported by a Commonwealth agency, and the Commonwealth agency has provided a letter endorsing the arrangement for the provision of the occupational training; or

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(c) the sponsor is specified in a legislative instrument made by the Minister for the purposes of this paragraph; or

(d) the occupational training will be provided in circumstances specified in a legislative instrument made by the Minister for the purposes of this paragraph.

(13) The Minister is satisfied that the sponsor does not engage in, or intend to engage in, activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

(14) The Minister is satisfied that the nominee has functional English.

Note: For ***functional English***, see subsection 5(2) of the Act.

(15) Regulation 2.72B applies to the nomination.

(16) The Minister is satisfied that the nominated program is offered as a genuine training opportunity for a purpose referred to in the subregulation of regulation 2.72B that applies.

2.72B Criteria for approval of nomination—alternative criteria for Subclass 407 (Training) visa

(1) For the purposes of subregulation 2.72A(15), this regulation applies to a nomination by a person who is, or who has applied to be, an approved work sponsor (the ***sponsor***) of a program of occupational training in relation to a holder of, or an applicant or proposed applicant for, a Subclass 407 (Training) visa (the ***nominee***) if any subregulation of this regulation applies.

Occupational training required for registration etc.

(2) This subregulation applies if the Minister is satisfied that:

(a) the occupational training is necessary for the nominee to obtain registration, membership or licensing in Australia, or in the home country of the nominee, in relation to the occupation of the nominee; and

(b) the registration, membership or licensing is required in order for the nominee to be employed in the occupation of the nominee in Australia or in the home country of the nominee; and

(c) the duration of the occupational training is necessary for the nominee to obtain registration, membership or licensing in Australia, or in the home country of the nominee, in relation to the occupation of the nominee, taking into account the prior experience of the nominee; and

(d) the occupational training is workplace based; and

(e) the nominee has appropriate qualifications and experience to undertake the occupational training.

Occupational training to enhance skills

(3) This subregulation applies if the Minister is satisfied that:

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(a) the occupational training is:
(i) a structured workplace training program; and
(ii) specifically tailored to the training needs of the nominee; and
(iii) of a duration that meets the specific training needs of the nominee; and
(b) the occupational training is in relation to an occupation specified, with its corresponding 6-digit code, by the Minister in a legislative instrument made for the purposes of this paragraph; and
(ba) the occupation is applicable to the nominee in accordance with the specification of the occupation; and
(c) the nominee has the equivalent of at least 12 months of full-time experience in the occupation to which the occupational training relates in the 24 months immediately preceding the time of nomination.

(3A) The Minister may, in an instrument made for the purposes of paragraph (3)(b), specify any matters for the purposes of specifying the applicability of occupations to nominees as mentioned in paragraph (3)(ba), including (without limitation) matters relating to any of the following:
(a) the person who nominated the program of occupational training;
(b) the nominee;
(c) the occupation;
(d) the program of occupational training;
(e) the circumstances in which the occupation is undertaken;
(f) the circumstances in which the program of occupational training is undertaken.

Occupational training for capacity building overseas—overseas qualification

(4) This subregulation applies if the Minister is satisfied that:
(a) the nominee is required to complete a period of no more than 6 months of practical experience, research or observation to obtain a qualification from a foreign educational institution; and
(b) the occupational training is a structured workplace-based training program specifically tailored to the training needs of the nominee.

Occupational training for capacity building overseas—government support

(5) This subregulation applies if the Minister is satisfied that:
(a) the occupational training is supported by a government agency, or by the government of a foreign country that is the home country of the nominee; and
(b) the occupational training is a structured workplace-based training program that is:
(i) specifically tailored to the training needs of the nominee; and
(ii) of a duration that meets the specific training needs of the nominee.

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Occupational training for capacity building overseas—professional development

(6) This subregulation applies if the Minister is satisfied that:
  (a) the nominee:
    (i) has an overseas employer; and
    (ii) is in a managerial or professional position in relation to the overseas employer; and
  (b) the occupational training is relevant to, and consistent with, the development of the managerial or professional skills of the nominee; and
  (c) the occupational training will provide skills and expertise relevant to, and consistent with, the business of the overseas employer of the nominee; and
  (d) the primary form of the occupational training is the provision of face-to-face teaching in a classroom or similar environment.

2.72C Criteria for approval of nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

Application of this regulation

(1) This regulation applies in relation to a person who:
  (a) is any of the following:
    (i) a standard business sponsor;
    (ii) a person who has applied to be a standard business sponsor;
    (iii) a party to a work agreement (other than a Minister);
    (iv) a party to negotiations for a work agreement (other than a Minister); and
  (b) under paragraph 140GB(1)(b) of the Act, nominates a proposed occupation in relation to a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the ***nominee***).

(2) For the purposes of paragraph 140GB(2)(b) of the Act, the criteria set out in this regulation are prescribed.

Note: In addition, subsection 140GB(2) of the Act requires the person to be an approved work sponsor and to have paid any nomination training contribution charge in relation to the nomination.

General

(3) The Minister is satisfied that the person made the nomination in accordance with the process set out in regulation 2.73B.

(4) The Minister is satisfied that either:
  (a) there is no adverse information known to Immigration about the person or a person associated with the person; or
  (b) it is reasonable to disregard any adverse information known to Immigration about the person or a person associated with the person.

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(5) The Minister is satisfied that:

(a) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the person is a standard business sponsor other than an overseas business sponsor; or

(b) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream:

(i) the person is a party to a work agreement (other than a Minister); and

(ii) the work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(6) The Minister is satisfied that the position associated with the occupation is located at a place in a part of Australia that, when the nomination was made, was a designated regional area.

Note: A designated regional area is a part of Australia specified in an instrument under regulation 1.15M.

(7) The Minister is satisfied that any debt due by the person as mentioned in section 140ZO of the Act (recovery of nomination training contribution charge and late payment penalty) has been paid in full.

Information to be provided as part of nomination

(8) If the nominee holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the Minister is satisfied that the person has listed on the nomination each other holder of that kind of visa who was granted the visa on the basis of having the necessary relationship with the nominee as mentioned in clause 494.311 of Schedule 2.

(9) However, the Minister may disregard the fact that one or more persons required to be listed on the nomination are not listed, if the Minister is satisfied it is reasonable in the circumstances to do so.

Nominated occupation

(10) The Minister is satisfied that:

(a) the occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified in:

(i) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the instrument made under subregulation (11) in force at the time the nomination is made; or

(ii) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream—the work agreement; and

(b) the occupation applies to the nominee in accordance with the instrument or work agreement.

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(11) The Minister may, by legislative instrument, specify occupations and, for each occupation:
  (a) either:
    (i) the 6-digit ANZSCO code for the occupation; or
    (ii) if there is no 6-digit ANZSCO code for the occupation—a 6-digit code for the occupation; and
  (b) if there is no 6-digit ANZSCO code for the occupation—tasks, qualifications and experience for the occupation; and
  (c) any matters for the purpose of determining whether the occupation applies to a nominee, including matters relating to any of the following:
    (i) the person who nominated the occupation;
    (ii) the nominee;
    (iii) the occupation;
    (iv) the position in which the nominee is to work;
    (v) the circumstances in which the occupation is undertaken;
    (vi) the circumstances in which the nominee is to be employed in the position.

(12) The Minister is satisfied that the position associated with the occupation is:
  (a) genuine; and
  (b) a full-time position; and
  (c) likely to exist for at least 5 years.

Additional requirements in relation to Employer Sponsored stream

(13) If:
  (a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
  (b) the occupation is not an occupation specified by the Minister in an instrument made under subregulation (14);

  the Minister is satisfied that:
  (c) the nominee will be engaged only as an employee under a written contract of employment by the person or an associated entity of the person (the ***employer***); and
  (d) the person will give the Minister a copy of the contract signed by the nominee and the employer; and
  (e) the terms and conditions of the nominee's employment will not include an express exclusion of the possibility of extending the period of employment.

(14) The Minister may, by legislative instrument, specify occupations for the purposes of paragraph (13)(b) of this regulation, subregulation 2.73B(11), paragraphs 2.73B(12)(c) and 2.86(2B)(b) and (2BA)(b), clause 494.222 of Schedule 2 and paragraph 8608(3)(a) of Schedule 8.

(15) Subject to subregulation (16), if:

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(a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and

(b) the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(b);

the Minister is satisfied that:

(c) the annual market salary rate for the occupation has been determined by the person in accordance with the instrument made under subregulation 2.72(17); and

(d) the annual market salary rate, excluding any non-monetary benefits, for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and

(e) the nominee's annual earnings in relation to the occupation will not be less than the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)); and

(f) the nominee's annual earnings, excluding any non-monetary benefits, in relation to the occupation will not be less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and

(g) either:

(i) there is no information known to Immigration that indicates that the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is inconsistent with Australian labour market conditions relevant to the occupation; or

(ii) it is reasonable to disregard any such information.

(16) However:

(a) the Minister may disregard the criterion in paragraph (15)(d) of this regulation if the Minister is satisfied that:

(i) the annual market salary rate for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the temporary skilled migration income threshold specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d); and

(ii) it is reasonable in the circumstances to do so; and

(b) the Minister may disregard the criterion in paragraph (15)(f) of this regulation if the Minister is satisfied that it is reasonable in the circumstances to do so.

(17) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the Minister is satisfied that:

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(a) either:
(i) there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply to the nominee are less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or
(ii) it is reasonable to disregard any such information; and
(b) the person has not engaged in discriminatory recruitment practices.

(18) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the Minister is satisfied that the Minister has been advised by a body that meets the requirements set out in subregulation (19) about whether the nominee would be paid at least the annual market salary rate for the occupation.

(19) For the purposes of subregulation (18), the body must:
(a) be specified by the Minister under subregulation (20); and
(b) be located in the State or Territory in which the position is located; and
(c) have responsibility for the part of Australia mentioned in subregulation (6).

(20) The Minister may, by legislative instrument, specify bodies for the purposes of paragraph (19)(a).

Additional requirements in relation to Labour Agreement stream

(21) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream, the Minister is satisfied that:
(a) the occupation is specified in the work agreement as an occupation that the person may nominate; and
(b) if the work agreement specifies requirements that must be met by a party to the work agreement—the requirements of the work agreement have been met; and
(c) the number of nominations in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas made by the person and approved by the Minister under section 140GB of the Act is less than the number of approved nominations in relation to visas of that type permitted under the work agreement for the year.

2.73 Process for nomination—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa

Application of this regulation

(1) This regulation applies in relation to a person who is nominating a proposed occupation under paragraph 140GB(1)(b) of the Act in relation to any of the following (the ***nominee***):
(a) a holder of a Subclass 457 (Temporary Work (Skilled)) visa;

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(b) a holder of a Subclass 482 (Temporary Skill Shortage) visa;
(c) an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

(2) For the purposes of subsection 140GB(3) of the Act, the person may nominate a proposed occupation in accordance with the process set out in this regulation.

General requirements for nominations

(3) The nomination must be made using the internet.

(4) The nomination must be made using the form specified by the Minister in a legislative instrument made for the purposes of this subregulation.

(5) The nomination must be accompanied by the fee specified by the Minister in a legislative instrument made for the purposes of this subregulation.

(5A) The nomination must be accompanied by any nomination training contribution charge the person is liable to pay in relation to the nomination.

(6) Unless the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream, the occupation must be nominated for a Subclass 482 (Temporary Skill Shortage) visa in:
(a) if the occupation is a short term skilled occupation specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made—the Short-term stream; or
(b) if the occupation is a medium and long term strategic skills occupation specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made—the Medium-term stream.

Alternative method of nominations

(7) For subregulations (3) to (5):
(a) if the Minister specifies, in a legislative instrument made for the purposes of this subregulation, a different way of making a nomination of an occupation, in circumstances specified in the instrument, the application may be made in that way; and
(b) if the Minister specifies in the instrument a form for the different way of making the nomination, the nomination must be made using that form; and
(c) if the Minister specifies in the instrument a different fee for making the nomination, the nomination must be accompanied by that fee.

Note: Subregulation (3) relates to making nominations on the internet. It may be necessary for the Minister to specify arrangements other than those in subregulations (3) to (5) if special circumstances exist.

Information to be included in nominations

(8) The nomination must identify the nominee.

(9) The person must provide the following information as part of the nomination:

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(a) if the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream—the name of the occupation and the corresponding 6-digit code as they are specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made;

(b) if:

(i) the person is a party to a work agreement or negotiations for a work agreement; and

(ia) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa; and

(ii) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream;

the name of the occupation and the corresponding 6-digit code (if any) as they are specified in the work agreement or proposed work agreement;

(c) the location or locations at which the occupation is to be carried out;

(d) the proposed period of stay for a visa granted on the basis of the nomination, in accordance with subregulations (10) and (11);

(da) the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination;

(e) any other information specified by the Minister in a legislative instrument made for the purposes of this paragraph.

(10) For the purposes of paragraph (9)(d):

(a) if:

(i) the occupation is a short term skilled occupation specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made; and

(ii) it would not be inconsistent with any international trade obligation of Australia to require the period of stay for a Subclass 482 (Temporary Skill Shortage) visa granted on the basis of the nomination to be no more than 2 years;

the proposed period of stay may be 1 or 2 years; or

(b) otherwise—the proposed period of stay may be 1, 2, 3 or 4 years.

(11) However, if:

(a) the person is a party to a work agreement or negotiations for a work agreement; and

(b) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream;

the period of stay must not exceed the period specified in the work agreement or proposed work agreement.

(12) The person must certify, in writing, as part of the nomination whether or not the person has engaged in conduct, in relation to the nomination, that constitutes a contravention of subsection 245AR(1) of the Act.

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(13) Unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13), the person must certify as part of the nomination, in writing, that:

(a) the employment contract entered into with the nominee complies; or

(b) the employment contract to be entered into with the nominee will, when entered, comply;

with all applicable requirements imposed by Commonwealth, State or Territory law relating to employment including, if applicable, the National Employment Standards (within the meaning of the *Fair Work Act 2009*).

Additional requirements in relation to Short-term stream and Medium-term stream

(14) If the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, the person must certify as part of the nomination, in writing:

(a) that the tasks of the position include a significant majority of the tasks specified for the occupation in:

(i) ANZSCO; or

(ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72(9) in force at the time the nomination is made; and

(b) that the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in:

(i) ANZSCO; or

(ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72(9) in force at the time the nomination is made; and

(c) unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13), that the occupation is a position in:

(i) if the person is an overseas business sponsor or would be an overseas business sponsor if the person were approved as a standard business sponsor—the person's business; or

(ii) in any other case—the person's business or a business of an associated entity of the person.

Additional requirements in relation to Labour Agreement stream

(15) If:

(a) the person is a party to a work agreement or negotiations for a work agreement; and

(aa) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa; and

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(b) the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream;

the person must certify as part of the nomination, in writing, that:

(c) the tasks of the position include a significant majority of the tasks specified for the occupation in:
  (i) ANZSCO; or
  (ii) if there is no ANZSCO code for the occupation—the work agreement or proposed work agreement; and

(d) the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in the work agreement or proposed work agreement.

2.73AA Refund of nomination fee and nomination training contribution charge—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa

(1) The Minister may refund the fee mentioned in subregulation 2.73(5) or (7), or any nomination training contribution charge mentioned in subregulation 2.73(5A), paid in relation to a nomination if:
  (a) any of subregulations (2) to (3E) apply; and
  (b) the Minister:
    (i) receives a written request for a refund from the person who paid the amount; or
    (ii) considers it is reasonable in the circumstances to refund the amount to the person who paid the amount without receiving a written request for a refund.

(2) This subregulation applies if the nomination is made because of a mistake by Immigration.

(3) This subregulation applies if:
  (a) the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream; and
  (b) the person is a party to a work agreement; and
  (c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:
    (i) the person has listed an occupation in the nomination that is not specified in the work agreement as an occupation that the person may nominate in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas; or
    (ii) the number of nominations in relation to Subclass 457 (Temporary Work (Skilled)) visas and Subclass 482 (Temporary Skill Shortage) visas made by the person and approved by the Minister under section 140GB of the Act is equal to or greater than the number of approved nominations in relation to those types of visa permitted under the work agreement for the year.

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(3A) This subregulation applies if:

(a) the person withdraws the nomination before a decision is made under section 140GB of the Act; and

(b) the reason for withdrawing the nomination is that the information in the nomination used to work out the amount of nomination training contribution charge in relation to the nomination was incorrect.

(3B) This subregulation applies if:

(a) the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream; and

(b) at the time the person made the nomination, the person had applied to be approved as a standard business sponsor; and

(c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:

(i) the person has withdrawn the application to be approved as a standard business sponsor; or

(ii) the Minister has refused to approve the person as a standard business sponsor.

(3C) This subregulation applies if:

(a) the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream; and

(b) the person withdraws the nomination before a work agreement is entered.

(3D) This subregulation applies if:

(a) an application for a Subclass 482 (Temporary Skill Shortage) visa made on the basis of the nomination is finally determined; and

(b) the grant of the visa is refused:

(i) under section 501, 501A or 501B of the Act; or

(ii) because the visa applicant did not satisfy public interest criterion 4001, 4002, 4003, 4003B, 4007 or 4020.

(3E) This subregulation applies if:

(a) a Subclass 482 (Temporary Skill Shortage) visa is granted on the basis of the nomination; and

(b) the visa holder fails to commence employment in the position associated with the nominated occupation.

(3F) If:

(a) a nomination made in relation to a person (the ***nominee***) is approved; and

(b) the period of stay proposed in the nomination is more than 1 year; and

(c) the nominee ceases to be employed by the person who made the nomination or an associated entity of the person within 1 year after commencing employment with the person or an associated entity of the person; and

(d) the Minister:

(i) receives a written request for a refund from the person; or

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(ii) considers it is reasonable in the circumstances to give a refund without receiving a written request for a refund;

the Minister may refund any nomination training contribution charge mentioned in subregulation 2.73(5A) paid in relation to the nomination, less the amount of nomination training contribution charge that would have been payable in relation to the nomination if the period of stay proposed in the nomination were 1 year.

(4) A refund under subregulation (1) or (3F) must be paid to the person who paid the amount.

(5) A refund under subregulation (1) or (3F) may be paid:
(a) in Australian currency; or
(b) if the amount in respect of which the refund is being paid was paid in another currency, in that other currency.

2.73A Process for nomination—Subclass 407 (Training) visa

(1) This regulation applies to a person who is nominating, under paragraph 140GB(1)(b) of the Act, a program of occupational training in relation to a holder of, or an applicant or proposed applicant for, a Subclass 407 (Training) visa.

(2) For the purposes of subsection 140GB(3) of the Act, the person may nominate the program in accordance with a process specified in a legislative instrument made by the Minister for the purposes of this subregulation.

(3) A legislative instrument made for the purposes of subregulation (2) may specify any of the following:
(a) a form for the nomination;
(b) a fee which must accompany the nomination;
(c) any other requirements in relation to the nomination.

2.73B Process for nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

Application of this regulation

(1) This regulation applies in relation to a person who is nominating a proposed occupation under paragraph 140GB(1)(b) of the Act in relation to a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the ***nominee***).

(2) For the purposes of subsection 140GB(3) of the Act, the person may nominate a proposed occupation in accordance with the process set out in this regulation.

General requirements for nominations

(3) The nomination must be made using the internet.

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(4) The nomination must be made using the form specified by the Minister under paragraph (14)(a).

(5) The nomination must be accompanied by the fee specified by the Minister under paragraph (14)(b).

(6) The nomination must be accompanied by any nomination training contribution charge the person is liable to pay in relation to the nomination.

Alternative method of nominations

(7) The following paragraphs apply if the Minister specifies under paragraph (14)(c) a different way of making a nomination of an occupation in specified circumstances:
  (a) the application may be made in that way in those circumstances (instead of using the internet);
  (b) if the nomination is made in that way and the Minister specifies under that paragraph a form for that way of making the nomination, the nomination must be made using that form (instead of the form mentioned in subregulation (4));
  (c) if the nomination is made in that way and the Minister specifies under that paragraph a different fee for making the nomination in that way, the nomination must be accompanied by that fee (instead of the fee mentioned in subregulation (5)).

Note: Subregulation (3) relates to making nominations on the internet. It may be necessary for the Minister to specify arrangements other than those in subregulations (3) to (5) if special circumstances exist.

Information to be included in nominations

(8) The nomination must identify the nominee.

(9) The person must provide the following information as part of the nomination:
  (a) if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the name of the occupation and the corresponding 6-digit code as they are specified in the instrument made under subregulation 2.72C(11) in force at the time the nomination is made;
  (b) if:
    (i) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
    (ii) the person is a party to a work agreement or negotiations for a work agreement; and
    (iii) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

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the name of the occupation and the corresponding 6-digit code (if any) as they are specified in the work agreement or proposed work agreement;

(c) the location or locations at which the occupation is to be carried out;

(d) the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination;

(e) if the nominee holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the date of grant of the visa;

(f) any other information specified by the Minister under paragraph (14)(d).

(10) The person must certify as part of the nomination, in writing, whether or not the person has engaged in conduct, in relation to the nomination, that constitutes a contravention of subsection 245AR(1) of the Act.

(11) Unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), the person must certify as part of the nomination, in writing, that:

(a) the employment contract entered into with the nominee complies; or

(b) the employment contract to be entered into with the nominee will, when entered, comply;

with all applicable requirements imposed by Commonwealth, State or Territory law relating to employment including, if applicable, the National Employment Standards (within the meaning of the *Fair Work Act 2009*).

Additional requirements in relation to Employer Sponsored stream

(12) If the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, the person must certify as part of the nomination, in writing:

(a) that the tasks of the position include a significant majority of the tasks specified for the occupation in:

(i) ANZSCO; or

(ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72C(11) in force at the time the nomination is made; and

(b) that the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in:

(i) ANZSCO; or

(ii) if there is no ANZSCO code for the occupation—the instrument made under subregulation 2.72C(11) in force at the time the nomination is made; and

(c) unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), that the occupation is a position in:

(i) the person's business; or

(ii) a business of an associated entity of the person.

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Additional requirements in relation to Labour Agreement stream

(13) If:

(a) the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and

(b) the person is a party to a work agreement or negotiations for a work agreement; and

(c) the work agreement or proposed work agreement authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the person must certify as part of the nomination, in writing, that:

(d) the tasks of the position include a significant majority of the tasks specified for the occupation in:

(i) ANZSCO; or

(ii) if there is no ANZSCO code for the occupation—the work agreement or proposed work agreement; and

(e) the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in the work agreement or proposed work agreement.

Minister may make legislative instruments

(14) The Minister may, by legislative instrument, specify any of the following:

(a) for the purposes of subregulation (4), the form in which a nomination must be made;

(b) for the purposes of subregulation (5), the fee that must accompany a nomination;

(c) for the purposes of subregulation (7), any of the following:

(i) a way of making a nomination and circumstances in which a nomination may be made in that way;

(ii) the form in which a nomination must be made if the nomination is made in a way specified under subparagraph (i);

(iii) the fee that must accompany a nomination if the nomination is made in a way specified under subparagraph (i);

(d) for the purposes of paragraph (9)(f), information that must be provided as part of a nomination.

2.73C Refund of nomination fee and nomination training contribution charge—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

(1) The Minister may refund the fee mentioned in subregulation 2.73B(5) or (7), or any nomination training contribution charge mentioned in subregulation 2.73B(6), paid in relation to a nomination if:

(a) any of subregulations (2) to (8) of this regulation apply; and

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(b) the Minister:
(i) receives a written request for a refund from the person who paid the amount; or
(ii) considers it is reasonable in the circumstances to refund the amount to the person who paid the amount without receiving a written request for a refund.

(2) This subregulation applies if the nomination is made because of a mistake by Immigration.

(3) This subregulation applies if:
(a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
(b) the person is a party to a work agreement; and
(c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:
(i) the person has listed an occupation in the nomination that is not specified in the work agreement as an occupation that the person may nominate in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas; or
(ii) the number of nominations in relation to Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas made by the person and approved by the Minister under section 140GB of the Act is equal to or greater than the number of approved nominations in relation to that type of visa permitted under the work agreement for the year.

(4) This subregulation applies if:
(a) the person withdraws the nomination before a decision is made under section 140GB of the Act; and
(b) the reason for withdrawing the nomination is that:
(i) the nomination, by mistake, identified the wrong occupation or stream; or
(ii) the information in the nomination used to work out the amount of nomination training contribution charge in relation to the nomination was incorrect.

(5) This subregulation applies if:
(a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and
(b) at the time the person made the nomination, the person had applied to be approved as a standard business sponsor; and
(c) the person withdraws the nomination before a decision is made under section 140GB of the Act because:
(i) the person has withdrawn the application to be approved as a standard business sponsor; or

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(ii) the Minister has refused to approve the person as a standard business sponsor.

(6) This subregulation applies if:
(a) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream; and
(b) the person withdraws the nomination before a work agreement is entered.

(7) This subregulation applies if:
(a) an application for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa made on the basis of the nomination is finally determined; and
(b) the grant of the visa is refused:
(i) under section 501, 501A or 501B of the Act; or
(ii) because the visa applicant did not satisfy public interest criterion 4001, 4002, 4003, 4003B, 4005, 4007 or 4020.

(8) This subregulation applies if:
(a) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa is granted on the basis of the nomination; and
(b) the visa holder fails to commence employment in the position associated with the nominated occupation.

(9) If:
(a) a nomination made in relation to a person (the ***nominee***) is approved; and
(b) the nominee ceases to be employed by the person who made the nomination within 1 year after commencing employment with the person; and
(c) the Minister:
(i) receives a written request for a refund from the person; or
(ii) considers it is reasonable in the circumstances to give a refund without receiving a written request for a refund;

the Minister may refund any nomination training contribution charge mentioned in subregulation 2.73B(6) paid in relation to the nomination, less:
(d) if the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination is less than $10,000,000—$600; or
(e) otherwise—$1,000.

(10) A refund under subregulation (1) or (9) must be paid to the person who paid the amount.

2.74 Notice of decision

(1) The Minister must notify an applicant for approval of a nomination, in writing, of a decision under subsection 140GB(2) of the Act:
(a) within a reasonable period after making the decision; and

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(b) by attaching a written copy of the approval or refusal; and
(c) if the decision is a refusal—by attaching a statement of reasons for the refusal.

(1A) If the applicant has a right to have the decision reviewed by application under Part 5 of the Act, the notification must state all of the following:
(a) that the decision can be reviewed by the ART;
(b) the time in which the application for review may be made;
(c) who can apply for the review;
(d) where the application for review may be made.

(2) The Minister may provide the notification to the applicant in an electronic form.

2.75 Period of approval of nomination—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa

(1) This regulation applies in relation to a nomination by a person of an occupation in which any of the following (the ***nominee***) is identified as the person who will work in the occupation:
(a) a holder of a Subclass 457 (Temporary Work (Skilled)) visa;
(b) a holder of a Subclass 482 (Temporary Skill Shortage) visa;
(c) an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

(2) An approval of a nomination ceases on the earliest of:
(a) the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the approved work sponsor; and
(b) 12 months after the day on which the nomination is approved unless, at that time, there is a visa application made by the nominee on the basis of the nomination that has not been finally determined; and
(ba) if a visa application made by the nominee on the basis of the nomination is finally determined or withdrawn after 12 months after the day on which the nomination is approved—the day on which the visa application is finally determined or withdrawn; and
(c) the day on which the nominee is granted a Subclass 482 (Temporary Skill Shortage) visa; and
(d) if the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or the Medium-term stream—the nomination end day, unless, on the nomination end day:
(i) the person is a standard business sponsor; or
(ii) there is an application for approval as a standard business sponsor made by the person before the sponsorship end day in relation to which a decision has not been made under subsection 140E(1) of the Act; and
(e) the day on which an application mentioned in subparagraph (d)(ii) is refused; and
(f) if:

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(i) the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or the Medium-term stream; and

(ii) the person's approval as a standard business sponsor is cancelled under subsection 140M(1) of the Act;

the day on which the person's approval as a standard business sponsor is cancelled; and

(g) if the approval of the nomination is given to a party to a work agreement (other than a Minister) and the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream—the day on which the work agreement ceases.

2.75A Period of approval of nomination—Subclass 407 (Training) visa

(1) This regulation applies to a nomination, under paragraph 140GB(1)(b) of the Act, of a program of occupational training in relation to a holder of, or an applicant or proposed applicant for, a Subclass 407 (Training) visa.

(2) An approval of a nomination ceases on the earliest of:

(a) the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the approved work sponsor; and

(b) 12 months after the day on which the nomination is approved; and

(c) 3 months after the day on which the person's approval as the kind of sponsor that could make the nomination ceases; and

(d) if the person's approval as the kind of sponsor that could make the nomination is cancelled under subsection 140M(1) of the Act—the day on which the person's approval is cancelled; and

(f) the day on which the applicant, or the proposed applicant, who is identified in relation to the nominated program, is granted a visa on the basis of that nomination.

2.75B Period of approval of nomination—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

(1) This regulation applies in relation to a nomination by a person of an occupation in which a holder of, or an applicant or proposed applicant for, a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (the ***nominee***) is identified as the person who will work in the occupation.

(2) An approval of a nomination ceases on the earliest of:

(a) the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the approved work sponsor; and

(b) 12 months after the day on which the nomination is approved unless, at that time, there is a visa application made by the nominee on the basis of the nomination that has not been finally determined; and

(c) if a visa application made by the nominee on the basis of the nomination is finally determined or withdrawn after 12 months after the day on which the

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nomination is approved—the day on which the visa application is finally determined or withdrawn; and

(d) the day on which the nominee is granted a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(e) if the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream—the nomination end day, unless, on the nomination end day:

(i) the person is a standard business sponsor; or

(ii) there is an application for approval as a standard business sponsor made by the person before the sponsorship end day in relation to which a decision has not been made under subsection 140E(1) of the Act; and

(f) the day on which an application mentioned in subparagraph (e)(ii) is refused; and

(g) if:

(i) the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream; and

(ii) the person's approval as a standard business sponsor is cancelled under subsection 140M(1) of the Act;

the day on which the person's approval as a standard business sponsor is cancelled; and

(h) if the approval of the nomination is given to a party to a work agreement (other than a Minister) and the nomination is of an occupation for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Labour Agreement stream—the day on which the work agreement ceases.

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Division 2.18—Work agreements

2.76 Requirements

(1) For section 140GC of the Act, and for the definition of ***work agreement*** in subsection 5(1) of the Act, a work agreement must meet the requirements prescribed in this regulation.

(2) A work agreement:
  (a) must be between:
    (i) the Commonwealth, as represented by the Minister, or by the Minister and 1 or more other Ministers; and
    (ii) a person, an unincorporated association or a partnership in Australia; and
  (b) must be a labour agreement that authorises the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 482 (Temporary Skill Shortage) visa or Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and
  (c) must be in effect.

2.76A Labour market testing and other work agreement requirements

(1) The Commonwealth must not enter into a work agreement in relation to the recruitment, employment or engagement of persons in occupations and locations required by the other party to the agreement unless the Minister is satisfied that the other party has made recent and genuine efforts to recruit, employ or engage Australian citizens or Australian permanent residents to meet those requirements.

(2) Subregulation (1) does not apply in relation to the recruitment, employment or engagement of a person in the following occupations:
  (a) Minister of Religion;
  (b) Religious Assistant.

(3) The Minister must publish, on the Department's website, policy guidelines to be considered by the Commonwealth in relation to the Commonwealth's negotiation of the following agreements:
  (a) work agreements;
  (b) agreements, known as Project Agreements, that relate to work agreements.

(4) Without limiting subregulation (3), the policy guidelines must include guidelines relating to the following:
  (a) objectives and principles relating to the negotiation of the agreements mentioned in that subregulation;
  (b) eligibility requirements to be considered for such agreements;
  (c) obligations to be required of parties entering into such agreements.

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Division 2.19—Sponsorship obligations

Subdivision 2.19.1—Sponsorship obligations of approved work sponsors etc.

2.77 Preliminary

For subsection 140H(1) of the Act, each of the obligations mentioned in this Subdivision is a sponsorship obligation that a person to whom the obligation applies must satisfy.

2.78 Obligation to cooperate with inspectors

(1) This regulation applies to a person who is or was an approved work sponsor.

(2) The person must cooperate with an inspector if:
  (a) the inspector is appointed under section 140V of the Act; and
  (b) the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act.

(3) Without limiting subregulation (2), the person is taken not to have cooperated with an inspector if:
  (a) the person hinders or obstructs an inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
  (b) the person conceals, or attempts to conceal, from an inspector the location of a person, document or thing while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
  (c) the person prevents, or attempts to prevent, another person from assisting an inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
  (d) the person assaults an inspector or a person assisting the inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
  (e) the person intimidates or threatens, or attempts to intimidate or threaten, an inspector or a person assisting the inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act.

(4) If the person is or was approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act, the obligation mentioned in subregulation (2):
  (a) starts to apply on the day on which the person is approved as a work sponsor in a class under subsection 140E(1) of the Act; and
  (b) ends 5 years after the day on which the person ceases or ceased to be an approved work sponsor.

(5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):

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(a) starts to apply on the day on which the work agreement commences; and
(b) ends 5 years after the day on which the work agreement ceases or ceased.

2.79 Obligation to ensure equivalent terms and conditions of employment—Subclass 457 (Temporary Work (Skilled)) visa and Subclass 482 (Temporary Skill Shortage) visa

(1) Subject to subregulation (1A):
(a) this regulation applies to a person who is or was a standard business sponsor of a primary sponsored person if:
(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or
(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and
(b) this regulation applies to a person who is or was a party to a work agreement (other than a Minister), and who is or was an approved work sponsor of a primary sponsored person, if:
(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or
(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa.

(1A) This regulation does not apply to a standard business sponsor of a primary sponsored person if:
(a) either:
(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or
(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and
(b) the annual earnings of the primary sponsored person are equal to or greater than the amount specified by the Minister in an instrument in writing for this paragraph.

(3) The person must ensure that:
(a) if:
(i) the person is mentioned in paragraph (1)(a); and
(ii) the nomination by the person of an occupation in which the primary sponsored person is identified was made before 18 March 2018;
the terms and conditions of employment provided to the primary sponsored person are:
(iii) no less favourable than the terms and conditions of employment that the Minister was satisfied, under paragraph 2.72(10)(c) (as in force before 18 March 2018), were no less favourable than the terms and

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conditions of employment that are provided, or would be provided, to an Australian citizen or an Australian permanent resident; and

(iv) no less favourable than the terms and conditions of employment that the person provides, or would provide, to an Australian citizen or an Australian permanent resident to perform equivalent work in the person's workplace at the same location; or

(b) if the person is mentioned in paragraph (1)(a) and the nomination by the person of an occupation in which the primary sponsored person is identified was made on or after 18 March 2018:

(i) the primary sponsored person's annual earnings in relation to the occupation are not less than the annual earnings the person indicated, at the time the nomination was approved, would be provided to the primary sponsored person for the occupation; and

(ii) the primary sponsored person's earnings in relation to the occupation are not less than the earnings an Australian citizen or an Australian permanent resident earns or would earn for performing equivalent work in the same workplace at the same location; and

(iii) the employment conditions (other than in relation to earnings) that apply to the primary sponsored person are no less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or

(e) if the person is mentioned in paragraph (1)(b), the terms and conditions of employment provided to the primary sponsored person are no less favourable than the terms and conditions of employment set out in the work agreement.

(4) The obligations mentioned in subregulation (3):

(a) start to apply on:

(i) the day on which the Minister approves a nomination by the person in which the primary sponsored person is identified; or

(iii) if the primary sponsored person does not hold a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa on the day the Minister approves the nomination—the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) end on the earlier of:

(i) the day on which the primary sponsored person is granted a further substantive visa that:

(A) is not a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and

(B) is in effect; and

(ii) the day on which the primary sponsored person ceases employment with the person.

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2.79A Obligation to ensure equivalent terms and conditions of employment—Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa

(1) This regulation applies:

(a) to a person who is or was a standard business sponsor of a primary sponsored person if:

(i) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(b) to a person who is or was a party to a work agreement (other than a Minister), and who is or was an approved work sponsor of a primary sponsored person, if:

(i) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(2) This regulation does not apply to a standard business sponsor of a primary sponsored person if the annual earnings of the primary sponsored person are equal to or greater than the amount specified by the Minister in an instrument in writing for the purposes of paragraph 2.79(1A)(b).

(3) The person must ensure that:

(a) if the person is mentioned in paragraph (1)(a):

(i) the primary sponsored person's annual earnings in relation to the occupation are not less than the annual earnings the person indicated, at the time the nomination was approved, would be provided to the primary sponsored person for the occupation; and

(ii) the primary sponsored person's earnings in relation to the occupation are not less than the earnings an Australian citizen or an Australian permanent resident earns or would earn for performing equivalent work in the same workplace at the same location; and

(iii) the employment conditions (other than in relation to earnings) that apply to the primary sponsored person are no less favourable than those that apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or

(b) if the person is mentioned in paragraph (1)(b), the terms and conditions of employment provided to the primary sponsored person are no less favourable than the terms and conditions of employment set out in the work agreement.

(4) The obligations mentioned in subregulation (3):

(a) start to apply on:

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(i) the day on which the Minister approves a nomination by the person in which the primary sponsored person is identified; or

(ii) if the primary sponsored person does not hold a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa on the day the Minister approves the nomination—the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) end on the earlier of:

(i) the day on which the primary sponsored person is granted a further substantive visa that:

(A) is not a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(B) is in effect; and

(ii) the day on which the primary sponsored person ceases employment with the person.

2.80 Obligation to pay travel costs to enable sponsored persons to leave Australia

(1) This regulation applies to a person who is or was:

(a) a temporary activities sponsor or a long stay activity sponsor of a primary sponsored person or a secondary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.223 (religious worker) of Schedule 2; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.223 (religious worker) of Schedule 2; or

(aa) a long stay activity sponsor of a primary sponsored person or a secondary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream; or

(b) a professional development sponsor of a primary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 402 (Training and Research) visa in the Professional Development stream; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 402 (Training and Research) visa in the Professional Development stream; or

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(c) a special program sponsor of a primary sponsored person or a secondary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 416 (Special Program) visa granted on the basis that the person satisfied the criterion in paragraph 416.222(a) of Schedule 2; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 416 (Special Program) visa granted on that basis; or

(ca) a temporary activities sponsor or a special program sponsor of a primary sponsored person or a secondary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.228 (special program) of Schedule 2; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.228 (special program) of Schedule 2; or

(d) a party to a work agreement (other than a Minister), and who is or was an approved work sponsor of a primary sponsored person or secondary sponsored person (the ***sponsored person***), if

(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(e) a standard business sponsor of a primary sponsored person or a secondary sponsored person (the ***sponsored person***), if:

(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(2) The person must pay the travel costs of the primary sponsored person or the secondary sponsored person:

(a) if the costs have been requested in writing by:

(i) the Minister on behalf of the primary sponsored person or the secondary sponsored person; or

(ii) the primary sponsored person; or

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(iii) the primary sponsored person on behalf of the secondary sponsored person; or

(iv) the secondary sponsored person; or

(v) the secondary sponsored person on behalf of the primary sponsored person; and

(b) that have not already been paid in accordance with this regulation; and

(c) that are reasonable and necessary.

(3) The request to pay travel costs must:

(a) specify the person or persons whose travel will be funded by the costs; and

(b) specify the country that the person, whose travel will be funded, holds a passport for and will travel to; and

(c) if the person is a multiple passport holder—specify the country that the person holds a passport for and wants to travel to; and

(d) be made while the person whose travel will be funded is the holder of the Subclass 401 (Temporary Work (Long Stay Activity)) visa, the Subclass 402 (Training and Research) visa, the Subclass 408 (Temporary Activity) visa, the Subclass 416 (Special Program) visa, the Subclass 457 (Temporary Work (Skilled)) visa, the Subclass 482 (Temporary Skill Shortage) visa or the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(4) Without limiting paragraph (2)(c), a person is taken to have paid reasonable and necessary costs if:

(a) the costs include the cost of travel from the primary sponsored person's usual place of residence in Australia to the place of departure from Australia; and

(b) the costs include the cost of travel from Australia to the country the person specifies in accordance with subregulation (3); and

(c) the costs are paid within 30 days of receiving the request for costs; and

(d) the costs are for economy class air travel or the equivalent of economy class air travel.

(5) The obligation mentioned in subregulation (2):

(a) starts to apply:

(i) if the primary sponsored person holds a Subclass 402 (Training and Research) visa—on the day the primary sponsored person is granted the visa; or

(ia) if the primary sponsored person or secondary sponsored person holds a Subclass 408 (Temporary Activity) visa or a Subclass 416 (Special Program) visa—on the day the primary sponsored person or secondary sponsored person is granted the visa; or

(ii) if the primary sponsored person or secondary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa, a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa:

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(A) on the day on which the Minister approves a nomination by the person that identifies the primary sponsored person; or

(B) if the primary sponsored person does not hold the visa on the day the Minister approves the nomination—on the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) for a primary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the primary sponsored person is granted a further substantive visa that is in effect and is:

(A) if the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa—a visa that is not a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or

(B) in any other case—a visa of a different subclass to the last substantive visa held by the primary sponsored person; and

(iii) the first day on which each of the following has occurred:

(A) the primary sponsored person has left Australia;

(B) the Subclass 401 (Temporary Work (Long Stay Activity)) visa, the Subclass 402 (Training and Research) visa, the Subclass 408 (Temporary Activity) visa, the Subclass 416 (Special Program) visa, the Subclass 457 (Temporary Work (Skilled)) visa, the Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa has ceased to be in effect;

(C) if:

(I) the primary sponsored person held a Subclass 020 (Bridging B) visa when the primary sponsored person left Australia; and

(II) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa, a Subclass 402 (Training and Research) visa, a Subclass 408 (Temporary Activity) visa, a Subclass 416 (Special Program) visa, a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the bridging visa has ceased to be in effect; and

(c) for a secondary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination by another approved work sponsor in which the primary sponsored person is identified; and

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(ii) the day on which the secondary sponsored person is granted a further substantive visa that is in effect and is:

(A) if the last substantive visa held by the secondary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa—a visa that is not a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or

(B) in any other case—a visa of a different subclass to the last substantive visa held by the secondary sponsored person; and

(iii) the first day on which each of the following has occurred:

(A) the secondary sponsored person has left Australia;

(B) the Subclass 401 (Temporary Work (Long Stay Activity)) visa, the Subclass 408 (Temporary Activity) visa, the Subclass 416 (Special Program) visa, the Subclass 457 (Temporary Work (Skilled)) visa, the Subclass 482 (Temporary Skill Shortage) visa or the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa has ceased to be in effect;

(C) if:

(I) the secondary sponsored person held a Subclass 020 (Bridging B) visa when the secondary sponsored person left Australia; and

(II) the last substantive visa held by the secondary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa, a Subclass 408 (Temporary Activity) visa, a Subclass 416 (Special Program) visa, a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the bridging visa has ceased to be in effect.

2.80A Obligation to pay travel costs—domestic worker (executive)

(1) This regulation applies to a person who is or was a temporary activities sponsor, or a long stay activity sponsor, of a primary sponsored person or a secondary sponsored person, if:

(a) the sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.224 (domestic worker) of Schedule 2; or

(b) the last substantive visa held by the sponsored person was a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.224 (domestic worker) of Schedule 2.

(1A) This regulation also applies to a person who is or was a long stay activity sponsor of a primary sponsored person or a secondary sponsored person if:

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(a) the primary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream; or

(b) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) stream.

(2) The person must pay the travel costs of the sponsored person:

(a) that will enable the sponsored person to travel to Australia, and leave Australia; and

(b) that have not already been paid in accordance with this regulation; and

(c) that are reasonable and necessary.

(3) Without limiting paragraph (2)(c), a person is taken to have paid reasonable and necessary costs if:

(a) the costs include the cost of travel:

(i) to Australia; and

(ii) from the place of arrival in Australia to the sponsored person's usual place of residence in Australia; and

(b) the costs include the cost of travel from the sponsored person's usual place of residence in Australia to the place of departure from Australia; and

(c) the costs include the cost of travel from Australia to the country from which the sponsored person came to Australia; and

(d) the costs are for economy class air travel or the equivalent of economy class air travel.

(4) The obligation mentioned in subregulation (2):

(aa) if subregulation (1) applies—starts to apply on the day on which the primary sponsored person is granted the visa referred to in that subregulation; or

(a) if subregulation (1A) applies—starts to apply on:

(i) the day on which the Minister approves a nomination by the person in which the primary sponsored person is identified; or

(ii) if the primary sponsored person does not hold a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) Stream on the day the Minister approves the nomination—the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) for a primary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the primary sponsored person is granted a further substantive visa that:

(A) is a visa of a different subclass to the last substantive visa held by the primary sponsored person; and

(B) is in effect; and

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(iii) the first day on which each of the following has occurred:

(A) the primary sponsored person has left Australia;

(B) the Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) Stream or the Subclass 408 (Temporary Activity) visa has ceased to be in effect;

(C) if:

(I) the primary sponsored person held a Subclass 020 (Bridging B) visa when the primary sponsored person left Australia; and

(II) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) Stream or a Subclass 408 (Temporary Activity) visa;

the bridging visa has ceased to be in effect; and

(c) for a secondary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the secondary sponsored person is granted a further substantive visa that:

(A) is a visa of a different subclass to the last substantive visa held by the secondary sponsored person; and

(B) is in effect; and

(iii) the first day on which each of the following has occurred:

(A) the secondary sponsored person has left Australia;

(B) the Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) Stream or the Subclass 408 (Temporary Activity) visa has ceased to be in effect;

(C) if:

(I) the secondary sponsored person held a Subclass 020 (Bridging B) visa when the secondary sponsored person left Australia; and

(II) the last substantive visa held by the secondary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Domestic Worker (Executive) Stream or a Subclass 408 (Temporary Activity) visa;

the bridging visa has ceased to be in effect.

2.81 Obligation to pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen

(1) This regulation applies to a person who is or was an approved work sponsor.

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(2) The person must pay costs incurred by the Commonwealth:
  (a) if the costs were incurred by the Commonwealth in taking either or both of the following actions in relation to the primary sponsored person or secondary sponsored person:
    (i) locating, as an unlawful non-citizen, the primary sponsored person or the secondary sponsored person;
    (ii) removing, as an unlawful non-citizen, the primary sponsored person or the secondary sponsored person from Australia; and
  (b) if the Minister has requested the payment of the costs by written notice in the manner specified in subregulation (5); and
  (c) if the costs were incurred by the Commonwealth within the period mentioned in subregulation (6).

(3) However, if the person has already paid the costs of return travel in accordance with the sponsorship obligation mentioned in regulation 2.80 (the ***return costs***), the person is liable to pay to the Commonwealth only the difference between:
  (a) the lesser of:
    (i) the actual costs incurred by the Commonwealth in taking 1 or more of the actions mentioned in paragraph (2)(a); or
    (ii) the costs up to the limit prescribed under paragraph 140J(1)(a) of the Act, as prescribed in subregulation (4); and
  (b) the return costs that have already been paid by the person.

(4) For paragraph 140J(1)(a) of the Act, the limit in relation to the obligation at subregulation (2) is $10 000.

(5) For paragraph (2)(b), the notice from the Minister requesting the payment of costs must:
  (a) be given using a method mentioned in section 494B of the Act; and
  (b) specify a date for compliance not earlier than 7 days after the date a person will be taken, by section 494C of the Act, to have received the notice.

(6) For paragraph 2 (c):
  (a) in relation to a primary sponsored person—the period within which the Commonwealth must incur the costs:
    (i) starts on the day on which the primary sponsored person becomes an unlawful non-citizen; and
    (ii) ends at the moment when the primary sponsored person leaves Australia; and
  (b) in relation to a secondary sponsored person—the period within which the Commonwealth must incur the costs:
    (i) starts on the day on which the secondary sponsored person becomes an unlawful non-citizen; and
    (ii) ends at the moment when the secondary sponsored person leaves Australia.

(7) The obligation mentioned in subregulation (2):

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(a) in relation to a primary sponsored person:
(i) starts to apply on the day on which the primary sponsored person becomes an unlawful non-citizen; and
(ii) ends 5 years after the time at which the primary sponsored person leaves Australia; and
(b) in relation to a secondary sponsored person:
(i) starts to apply on the day on which the secondary sponsored person becomes an unlawful non-citizen; and
(ii) ends 5 years after the time at which the secondary sponsored person leaves Australia.

(8) In this regulation:

costs, in relation to the removal of a former primary sponsored person or a former secondary sponsored person from Australia, has the same meaning as in paragraph (b) of the definition of costs in section 207 of the Act.

2.82 Obligation to keep records

(1) This regulation applies to a person who is or was an approved work sponsor.

(2) The person must keep records:
(a) of a kind:
(i) if the person is a standard business sponsor—specified in subregulation (3); or
(ii) if the person is a party to a work agreement—specified in subregulations (3) and (3A); or
(iii) if the person is a temporary activities sponsor, a temporary work sponsor or a professional development sponsor—specified in paragraphs (3)(a) and (b); and
(aa) of a kind specified by the Minister in an instrument in writing (if any) made for this subparagraph; and
(b) in a reproducible format; and
(c) either:
(i) in the manner specified by the Minister in an instrument in writing (if any) made for this subparagraph; or
(ii) if the record is a record mentioned in subparagraph (3)(a)(iii), (3)(e)(i), (3)(e)(ii) or paragraph (3)(g)—in a manner that is capable of being verified by an independent person; and
(d) for the period specified in subregulation (4), (5) or (6).

(3) For paragraph (2)(a), the records are:
(a) if the obligation mentioned in regulation 2.80 applies to the person:
(i) a record of the written request by the primary sponsored person or secondary sponsored person for the payment of return travel costs; and

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(ii) a record of when the written request for the payment of return travel costs was received by the person; and

(iii) a record of how the person complied with the request to pay return travel costs, including:

(A) the costs paid; and

(B) who the costs were paid for; and

(C) the date of the payment of the costs; and

(b) if the obligation mentioned in regulation 2.84 applies to the person:

(i) a record of a notification to Immigration of an event specified in regulation 2.84 for the person; and

(ii) a record of the particulars of the notification of the event, including:

(A) the date on which the person notified Immigration of the event; and

(B) the method by which the notification was provided; and

(C) where the notification was provided; and

(c) if:

(i) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

a record of the tasks performed by the primary sponsored person in relation to work undertaken in relation to the nominated occupation; and

(d) a record of the location or locations at which the tasks mentioned in paragraph (c) were performed; and

(e) if the obligation mentioned in regulation 2.79 or 2.79A applies to the person:

(i) a record of the money paid to the primary sponsored person; and

(ii) a record of the money applied or dealt with in any way on the primary sponsored person's behalf or as the primary sponsored person directed; and

(iii) a record of the non-monetary benefits provided to the primary sponsored person, including the agreed value and the time at which, or the period over which, those benefits were provided; and

(iv) if there is an equivalent worker or workers in the person's workplace—a record of the terms and conditions that apply, or did apply, to an equivalent worker or workers, including the period over which the terms and conditions applied; and

(f) a copy of the written contract of employment under which the primary sponsored person is employed; and

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(g) if the person was approved as a standard business sponsor before 12 August 2018 and was lawfully operating a business in Australia at the time of:

(i) the person's approval as a standard business sponsor; or

(ii) the approval of a variation to the person's approval as a standard business sponsor;

all records showing that the person has complied with requirements relating to training specified by the Minister in an instrument in force before 12 August 2018 under subregulation 2.87B(2) (as in force before 12 August 2018); and

(h) records to substantiate the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for nominations in relation to which the person is liable for nomination training contribution charge.

(3A) For subparagraph (2)(a)(ii), the records are the records specified in the work agreement as records that must be kept.

(4) If the person is or was approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the person is approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act; and

(b) ends 2 years after the first day on which each of the following occurs concurrently:

(i) the person ceases to be an approved work sponsor;

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the work agreement commences; and

(b) ends 2 years after the first day on which each of the following occurs concurrently:

(i) the person ceases to be a party to a work agreement;

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(6) However, the obligation mentioned in subregulation (2) does not require a person to keep a record for a period of more than 5 years.

2.83 Obligation to provide records and information to the Minister

(1) This regulation applies to a person who is or was an approved work sponsor.

(2) The person must provide records or information to the Minister:

(a) if the Minister has requested the provision of the records or information by written notice in the manner specified in subregulation (3); and

(b) if the records requested by the Minister:

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(i) are records the person is required to keep under a law of the Commonwealth or a State or Territory that applies to the person; or

(ii) are records the person is required to keep under regulation 2.82; and

(c) if the records or information relates to:

(i) the administration of Division 3A of Part 2 of the Act and the Regulations made under that Division; or

(ii) if the person is a party to a work agreement—the administration of the work agreement; and

(d) in the manner, and within the timeframe, requested by the Minister in the notice mentioned in subregulation (3).

(3) A notice from the Minister requesting the provision of records or information must:

(a) be given using a method mentioned in section 494B of the Act; and

(b) specify a date for compliance not earlier than 7 days after the date on which a person will be taken, by section 494C of the Act, to have received the document.

(4) If the person is or was approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the person is approved as a work sponsor under section 140E of the Act; and

(b) ends 2 years after the first day on which each of the following occurs concurrently:

(i) the person ceases to be an approved work sponsor; and

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the work agreement commences; and

(b) ends 2 years after the first day on which each of the following occurs concurrently:

(i) the person ceases to be a party to a work agreement;

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

2.84 Obligation to provide information to Immigration when certain events occur

(1) This regulation applies to a person who is or was an approved work sponsor.

(2) The person must:

(a) provide details of an event to Immigration when an event mentioned in this regulation, and specified for the person, occurs; and

(b) provide the details of the event:

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(i) electronically, in the manner specified by the Minister in a legislative instrument made for the purposes of this subparagraph; and

(ii) within the period specified in subregulation (6).

(3) If the person is or was a standard business sponsor or a party to a work agreement, the person must notify Immigration about each of the following events:

(a) the cessation, or expected cessation, of a primary sponsored person's employment with the person;

(aa) a change to the work duties carried out by a primary sponsored person;

(ab) a primary sponsored person failing to commence employment by the time agreed between the person and the primary sponsored person;

(b) a change to the information provided to Immigration in the person's application for approval as a work sponsor in relation to:

(i) the training requirement mentioned in paragraphs 2.59(d) and (e) (as in force before 18 March 2018); and

(ii) the person's address and contact details;

(ba) if the person is or was a party to a work agreement—a change to:

(i) the training information provided in the work agreement; or

(ii) the person's address and contact details provided in the work agreement;

(c) a change to the information provided to Immigration in the person's application for a variation of a term of approval in relation to the training requirement mentioned in paragraphs 2.68(e) and (f) (as in force before 18 March 2018);

(d) the legal entity of the person ceases to exist;

(e) if the legal entity of the person is a company—a new director is appointed;

(f) if the legal entity of the person is a partnership—a new partner joins the partnership;

(g) if the legal entity of the person is an unincorporated association—a new member is appointed to the managing committee of the association;

(h) the person has paid the return travel costs of a primary sponsored person or secondary sponsored person in accordance with the obligation mentioned in regulation 2.80;

(i) the person has become insolvent within the meaning of subsections 5(2) and (3) of the *Bankruptcy Act 1966* and section 95A of the *Corporations Act 2001*;

(j) if the person is a natural person—any of the following:

(i) the person enters into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*;

(ii) the person enters into a debt agreement under Part IX of the *Bankruptcy Act 1966*;

(iii) a sequestration order is made against the estate of the person under Part IV of the *Bankruptcy Act 1966*;

(iv) the person becomes a bankrupt by virtue of the presentation of a debtor's petition under Part IV of the *Bankruptcy Act 1966*;

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(v) the person presents a declaration of intention to present a debtor's petition under Part IV of the *Bankruptcy Act 1966*;

(vi) a composition or scheme of arrangement is presented in relation to the person in accordance with Division 6 of Part IV of the *Bankruptcy Act 1966*;

(k) if the person is a company—any of the following:

(i) an administrator is appointed for the company under Part 5.3A of the *Corporations Act 2001*;

(ii) the company resolves by special resolution to be wound up voluntarily under subsection 491(1) of the *Corporations Act 2001*;

(iii) a court has ordered that the company be wound up in insolvency under Part 5.4, or on other grounds under Part 5.4A, of the *Corporations Act 2001*;

(iv) a court has appointed a registered liquidator to be the provisional liquidator of the company under Part 5.4B of the *Corporations Act 2001*;

(v) a court has approved a compromise or arrangement proposed by the company under Part 5.1 of the *Corporations Act 2001*;

(vi) the property of the company becomes subject to a receiver or other controller under Part 5.2 of the *Corporations Act 2001*;

(vii) procedures are initiated for the deregistration of the company under Part 5A.1 of the *Corporations Act 2001*;

(viii) a restructuring practitioner for the company is appointed under Part 5.3B of the *Corporations Act 2001*;

(l) if the person is a partner of a partnership, or a member of a managing committee for an unincorporated association—any of the events of the kind mentioned in paragraphs (j) and (k).

(4) If the person is or was a professional development sponsor of a primary sponsored person (other than a holder of a Subclass 407 (Training) visa), the person must inform Immigration about each of the following events:

(a) a change to the information provided to Immigration in the person's application for approval as a work sponsor in relation to:

(i) the person's address and contact details; and

(ii) the person's capacity to deliver the approved professional development program; and

(iii) the capacity of a sub-contractor involved in the delivery of the approved professional development program to deliver the program or any part of the program;

(b) the legal entity of the person ceases to exist;

(c) if the legal entity of the person is a company—a new director is appointed;

(d) if the legal entity of the person is a partnership—a new partner joins the partnership;

(e) if the legal entity of the person is an unincorporated association—a new member is appointed to the managing committee of the association;

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(f) the person has become insolvent within the meaning of subsections 5(2) and (3) of the *Bankruptcy Act 1966* and section 95A of the *Corporations Act 2001*;

(h) if the person is a company—any of the following:

(i) an administrator is appointed for the company under Part 5.3A of the *Corporations Act 2001*;

(ii) the company resolves by special resolution to be wound up voluntarily under subsection 491(1) of the *Corporations Act 2001*;

(iii) a court has ordered that the company be wound up in insolvency under Part 5.4, or on other grounds under Part 5.4A, of the *Corporations Act 2001*;

(iv) a court has appointed an official liquidator to be the provisional liquidator of the company under Part 5.4B of the *Corporations Act 2001*;

(v) a court has approved a compromise or arrangement proposed by the company under Part 5.1 of the *Corporations Act 2001*;

(vi) the property of the company becomes subject to a receiver or other controller under Part 5.2 of the *Corporations Act 2001*;

(vii) procedures are initiated for the deregistration of the company under Part 5A.1 of the *Corporations Act 2001*;

(viii) a restructuring practitioner for the company is appointed under Part 5.3B of the *Corporations Act 2001*;

(i) if the person is a partner of a partnership, or a member of a managing committee for an unincorporated association—any of the events of the kind mentioned in paragraph (h);

(j) the primary sponsored person is unable to participate in the professional development program;

(k) the primary sponsored person has ceased participation in the professional development program prior to the ending of the professional development program;

(l) the primary sponsored person has failed to attend the professional development program, and this absence was not authorised by the professional development sponsor.

(4A) If the person is or was a temporary activities sponsor, the person must inform Immigration about a change to the information, in relation to the sponsor's address and contact details, provided to Immigration in the person's application for approval as a temporary activities sponsor.

(4B) If the person is or was:

(a) a temporary activities sponsor in relation to a primary sponsored person; or

(b) a professional development sponsor in relation to a primary sponsored person who holds a Subclass 407 (Training) visa; or

(c) any of the following kinds of sponsor in relation to a primary sponsored person who holds a Subclass 408 (Temporary Activity) visa:

(i) a special program sponsor;

(ii) an entertainment sponsor;

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(iii) a superyacht crew sponsor;
(iv) a long stay activity sponsor;
(v) a training and research sponsor;

the person must inform Immigration about each of the following events:

(d) the primary sponsored person failing to participate in the activity in relation to which the visa was granted;
(e) the primary sponsored person ceasing participation in the activity in relation to which the visa was granted;
(f) if the primary sponsored person was granted a Subclass 408 (Temporary Activity) visa on the basis that subclause 408.222(3) (elite player, coach, instructor or adjudicator) of Schedule 2 applied to the primary sponsored person—a change to the formal arrangement referred to in paragraph 408.222(3)(c) of Schedule 2;
(g) if the primary sponsored person was granted a Subclass 408 (Temporary Activity) visa on the basis that the primary sponsored person satisfied the criteria in clause 408.225 (superyacht crew) of Schedule 2—the cessation, or expected cessation, of a primary sponsored person's employment with the sponsor;
(h) if the primary sponsored person was granted a Subclass 408 (Temporary Activity) visa on the basis that the primary sponsored person satisfied the criteria in clause 408.227 (staff exchange) of Schedule 2—a change to the agreement referred to in paragraph 408.227(b) of Schedule 2;
(i) if the primary sponsored person was granted a Subclass 408 (Temporary Activity) visa on the basis that the primary sponsored person satisfied any of the criteria in clause 408.229A (entertainment) of Schedule 2 and the sponsor is an Australian organisation—the organisation ceasing to exist;
(j) if the primary sponsored person was granted a Subclass 408 (Temporary Activity) visa on the basis that the primary sponsored person satisfied the criteria in subclause 408.229A(2), (3), (4), (5) or (6) (entertainment) of Schedule 2—the sponsor ceasing to hold a licence referred to in paragraph 408.229A(2)(d), (3)(d), (4)(d), (5)(d) or (6)(d) of Schedule 2, as the case may be;
(k) the person paying the return travel costs of the primary sponsored person, or a secondary sponsored person in relation to the primary sponsored person, in accordance with the obligation referred to in regulation 2.80.

(4C) If the person is or was a special program sponsor, the person must inform Immigration about each of the following events:

(a) a non-Subclass 408 primary sponsored person is unable to meet the requirements of the special program;
(b) a non-Subclass 408 primary sponsored person is unable to participate in a special program;
(c) a non-Subclass 408 primary sponsored person ceases participation in a special program prior to the ending of the special program;
(d) a non-Subclass 408 primary sponsored person fails to attend a special program.

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(4E) If the person is or was an entertainment sponsor, the person must inform Immigration about each of the following events:

(a) a non-Subclass 408 primary sponsored person fails to participate in the nominated activity for which the non-Subclass 408 primary sponsored person was identified;

(b) if a non-Subclass 408 primary sponsored person was identified in a nomination to perform in a film or television production—the cessation of the non-Subclass 408 primary sponsored person's participation in the nominated activity for which the non-Subclass 408 primary sponsored person was identified;

(c) a non-Subclass 408 primary sponsored person (other than a person mentioned in paragraph (b)) ceases participation, in the nominated activity for which the non-Subclass 408 primary sponsored person was identified, prior to the cessation date specified in the itinerary provided to the Minister in accordance with the nomination criteria;

(d) the entertainment sponsor ceases to hold a licence that the entertainment sponsor was required to hold for the nomination to be approved;

(e) a change to the information, in relation to the person's address and contact details, provided to Immigration in the person's application for approval as an entertainment sponsor;

(f) if the entertainment sponsor is an Australian organisation—the legal entity of the sponsor ceases to exist.

(4J) If the person is or was a superyacht crew sponsor, the person must inform Immigration about each of the following events:

(a) the cessation, or expected cessation, of a non-Subclass 408 primary sponsored person's employment with the person;

(b) a change to the information, in relation to the person's address and contact details, provided to Immigration in the person's application for approval as a superyacht crew sponsor.

(4K) If the person is or was a long stay activity sponsor, the person must inform Immigration about each of the following events:

(a) a change to the information, in relation to the person's address and contact details, provided to Immigration in the person's application for approval as a long stay activity sponsor;

(b) a non-Subclass 408 primary sponsored person fails to participate in the nominated occupation or activity for which the non-Subclass 408 primary sponsored person was identified;

(c) a non-Subclass 408 primary sponsored person ceases participation in the nominated occupation or activity for which the non-Subclass 408 primary sponsored person was identified;

(d) a change to the formal arrangement between the non-Subclass 408 primary sponsored person and the person;

(e) a change to the exchange agreement;

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(f) the person has paid the return travel costs of a non-Subclass 408 primary sponsored person or secondary sponsored person in accordance with the obligation mentioned in regulation 2.80.

(4L) If the person is or was a training and research sponsor, the person must inform Immigration about each of the following events:

(a) a change to the information, in relation to the person's address and contact details, provided to Immigration in the person's application for approval as a training and research sponsor;

(b) a non-Subclass 408 primary sponsored person fails to participate in the nominated occupation, program or activity for which the non-Subclass 408 primary sponsored person was identified;

(c) a non-Subclass 408 primary sponsored person ceases participation in the nominated occupation, program or activity for which the non-Subclass 408 primary sponsored person was identified;

(d) a non-Subclass 408 primary sponsored person fails to participate in the research project in relation to which the non-Subclass 408 primary sponsored person was granted the visa.

(5) For paragraphs (3)(a), (4B)(g) and (4J)(a):

(a) the person may notify Immigration of the final date of employment of the primary sponsored person before that date; and

(b) if the primary sponsored person does not cease employment with the person, or ceases employment on a different date—the person must notify Immigration of the continued employment or the new date of cessation.

(6) The notification of an event mentioned in an item of the table must be made within the timeframe mentioned in the item.

Item	For an event mentioned in …	the notification must be made …
1	paragraph (3)(a), (4B)(g) or (4J)(a)	within 28 days of the primary sponsored person ceasing employment
2	paragraphs (3)(aa) to (l)	within 28 days of the change or event occurring
3	subregulation (4)	within 28 days of the change or event occurring
3A	subregulations (4A) to (4L), other than the paragraphs mentioned in item 1	within 28 days of the change or event occurring
4	paragraph (5)(b)	the earlier of: (a) within 28 days of the cessation date notified under paragraph (3)(a), (4B)(g) or (4J)(a); and (b) within 28 days of the actual cessation date

(7) If the person is or was approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the person is approved as a work sponsor under section 140E of the Act; and

(b) ends after the first day on which each of the following occurs concurrently:

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(i) the person ceases to be an approved work sponsor; and
(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(8) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):
(a) starts to apply on the day on which the work agreement commences; and
(b) ends after the first day on which each of the following occurs concurrently:
(i) the person ceases to be a party to a work agreement; and
(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(9) In this regulation:

non-Subclass 408 primary sponsored person means a primary sponsored person who does not hold a Subclass 408 (Temporary Activity) visa.

2.85 Obligation to secure an offer of a reasonable standard of accommodation

(1) This regulation applies to a person who is or was:
(a) an approved work sponsor in relation to a primary sponsored person or a secondary sponsored person, if:
(iii) the primary sponsored person holds a Subclass 402 (Training and Research) visa in the Professional Development stream; or
(iv) the last substantive visa held by the primary sponsored person was a Subclass 402 (Training and Research) visa in the Professional Development stream; or
(b) a special program sponsor in relation to a primary sponsored person or a secondary sponsored person, if:
(i) either:
(A) the primary sponsored person or secondary sponsored person holds a Subclass 416 (Special Program) visa; or
(B) the last substantive visa held by the primary sponsored person or secondary sponsored person was a Subclass 416 (Special Program) visa; and
(ii) the position in the activity in relation to which the primary sponsored person or secondary sponsored person was granted the Subclass 416 (Special Program) visa is a volunteer role; or
(ba) a temporary activities sponsor or a special program sponsor in relation to a primary sponsored person or a secondary sponsored person, if:
(i) the primary sponsored person or secondary sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.228 (special program) of Schedule 2, or the last substantive visa held by the primary sponsored person or secondary sponsored person was such a visa; and

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(ii) the position in the activity in relation to which the primary sponsored person or secondary sponsored person was granted the visa is a volunteer role; or

(c) an entertainment sponsor in relation to a primary sponsored person or a secondary sponsored person, if:

(i) either:

(A) the primary sponsored person or secondary sponsored person holds a Subclass 420 (Entertainment) visa; or

(B) the last substantive visa held by the primary sponsored person or secondary sponsored person was a Subclass 420 (Entertainment) visa; and

(ii) the primary sponsored person or secondary sponsored person was identified in a nomination of an occupation, a program or an activity that is a volunteer role; or

(d) an approved work sponsor in relation to a primary sponsored person or a secondary sponsored person, if:

(i) the primary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Sport stream, or the Religious Worker stream, in relation to a volunteer role; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Sport stream, or the Religious Worker stream, in relation to a volunteer role; or

(iii) the primary sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.222 (sport), 408.223 (religious worker) or 408.229A (entertainment) of Schedule 2 in relation to a volunteer role; or

(iv) the last substantive visa held by the primary sponsored person was a visa referred to in subparagraph (iii); or

(e) an approved work sponsor in relation to a primary sponsored person or a secondary sponsored person, if:

(i) the primary sponsored person holds a Subclass 402 (Training and Research) visa in the Occupational Trainee stream in relation to a volunteer role; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 402 (Training and Research) visa in the Occupational Trainee stream in relation to a volunteer role; or

(iii) the primary sponsored person holds a Subclass 407 (Training) visa in relation to a volunteer role; or

(iv) the last substantive visa held by the primary sponsored person was a Subclass 407 (Training) visa in relation to a volunteer role.

(2) The person must secure 1 or more offers of accommodation for the primary sponsored person or secondary sponsored person that:

(a) will provide for a reasonable standard of accommodation; and

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(b) will ensure that the primary sponsored person or secondary sponsored person has accommodation while the primary sponsored person or secondary sponsored person is in Australia.

Example: If accommodation that has been secured becomes unavailable, the approved work sponsor must secure another offer of accommodation for the primary sponsored person or secondary sponsored person.

(3) For subregulation (2)(a), accommodation is of a reasonable standard if the accommodation:

(a) meets all relevant State or Territory and local government regulations regarding fire, health and safety; and
(b) offers 24-hour access; and
(c) provides meals or a self-catering kitchen; and
(d) is clean and well-maintained; and
(e) has a lounge area; and
(f) has adequate laundry facilities or a laundry service; and
(g) provides power for lighting, cooking and refrigeration; and
(h) has an adequate ratio of guests to bathroom facilities; and
(i) has uncrowded sleeping areas; and
(j) provides appropriate gender segregated areas and bathroom facilities; and
(k) allows adequate privacy and secure storage for personal items.

(4) The obligation mentioned in subregulation (2):

(a) starts to apply:

(i) if the primary sponsored person or secondary sponsored person holds a Subclass 408 (Temporary Activity) visa granted on the basis that the primary sponsored person satisfied the criteria in clause 408.222 (sport), 408.223 (religious worker), 408.228 (special program) or 408.229A (entertainment) of Schedule 2, or a Subclass 416 (Special Program) visa—on the day on which the primary sponsored person or secondary sponsored person is granted the visa; or

(ii) if the primary sponsored person or secondary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa, a Subclass 407 (Training) visa or a Subclass 420 (Entertainment) visa:

(A) on the day on which the Minister approves a nomination by the person that identifies the primary sponsored person; or

(B) if the primary sponsored person does not hold the visa on the day the Minister approves the nomination—on the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; or

(iii) if the primary sponsored person holds a Subclass 402 (Training and Research) visa in the Professional Development stream—on the day the visa is granted; or

(iv) if the primary sponsored person holds a Subclass 402 (Training and Research) visa in the Occupational Trainee stream:

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(A) on the day the Minister approves a nomination by the person that identifies the primary sponsored person; or

(B) if the primary sponsored person does not hold the visa on the day the Minister approves the nomination—on the day the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) for a primary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the primary sponsored person is granted a further substantive visa that:

(A) is a visa of a different subclass to the last substantive visa held by the primary sponsored person; and

(B) is in effect; and

(iii) the first day on which each of the following has occurred:

(A) the primary sponsored person has left Australia;

(B) the visa mentioned in subregulation (1) has ceased to be in effect;

(C) if:

(I) the primary sponsored person held a Subclass 020 (Bridging B) visa when the primary sponsored person left Australia; and

(II) the last substantive visa held by the primary sponsored person was a visa mentioned in subregulation (1);

the bridging visa has ceased to be in effect; and

(c) for a secondary sponsored person—ends on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the secondary sponsored person is granted a further substantive visa that:

(A) is a visa of a different subclass to the last substantive visa held by the secondary sponsored person; and

(B) is in effect; and

(iii) the first day on which each of the following has occurred:

(A) the secondary sponsored person has left Australia;

(B) the visa mentioned in subregulation (1) has ceased to be in effect;

(C) if:

(I) the secondary sponsored person held a Subclass 020 (Bridging B) visa when the secondary sponsored person left Australia; and

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(II) the last substantive visa held by the secondary sponsored person was a visa mention in subregulation (1);

the bridging visa has ceased to be in effect.

2.86 Obligation to ensure primary sponsored person works or participates in nominated occupation, program or activity

(1) This regulation applies to:

(a) a person who is or was an approved work sponsor in relation to a primary sponsored person if:

(i) the primary sponsored person holds a visa in relation to which the primary sponsored person was required to be nominated by an approved work sponsor; or

(ii) an occupation, a program or an activity was required to be nominated in relation to the primary sponsored person by an approved work sponsor; and

(b) a person who is or was an approved work sponsor in relation to a person who was a primary sponsored person if:

(i) the last substantive visa held by the primary sponsored person was a visa in relation to which the primary sponsored person was required to be nominated by an approved work sponsor; or

(ii) an occupation, a program or an activity was required to be nominated in relation to the primary sponsored person by an approved work sponsor.

(2) If the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the person must ensure that the primary sponsored person:

(a) works in the nominated occupation; and

(b) does not work in an occupation unless both of the following apply:

(i) the occupation was nominated by the person in relation to the primary sponsored person under subsection 140GB(1) of the Act;

(ii) the nomination was approved by the Minister under subsection 140GB(2) of the Act.

(2A) If:

(a) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa, or the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and

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(b) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13);

the person must ensure that:

(c) if the person is, or was, a standard business sponsor who was lawfully operating a business in Australia at the time of the person's approval as a standard business sponsor, or at the time of the last approval of a variation to the person's term of approval as a standard business sponsor—the primary sponsored person is engaged only as:

(i) an employee of the person; or

(ii) an employee of an associated entity of the person; or

(d) if the person is or was a standard business sponsor who was not lawfully operating a business in Australia, and was lawfully operating a business outside Australia, at the time of the person's approval as a standard business sponsor, or at the time of the last approval of a variation to the person's term of approval as a standard business sponsor—the primary sponsored person is engaged only as an employee of the person; or

(e) if the person is or was a party to a work agreement—the primary sponsored person is engaged only as an employee of the person.

(2AA) If:

(aa) the primary sponsored person holds a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa, or the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; and

(ab) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13); and

(ac) the person is, or was, a standard business sponsor;

the person must ensure that:

(a) the primary sponsored person is employed under a written contract of employment; and

(b) if the person is, or was, a standard business sponsor who was lawfully operating a business in Australia at the time of the person's approval as a standard business sponsor, or at the time of the last approval of a variation to the person's term of approval as a standard business sponsor:

(i) the person does not engage in activities that relate to the recruitment of a visa holder, an applicant for a visa or a proposed applicant for a visa for the purpose of supplying the holder, applicant or proposed applicant to a business that is not associated with the person; and

(ii) the person does not engage in activities that relate to the hire of a visa holder to a business that is not associated with the person; and

(c) if the person is or was a standard business sponsor who was not lawfully operating a business in Australia, and was lawfully operating a business outside Australia, at the time of the person's approval as a standard business sponsor, or at the time of the last approval of a variation to the person's term of approval as a standard business sponsor:

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(i) the person does not engage in activities that relate to the recruitment of a visa holder, an applicant for a visa or a proposed applicant for a visa for the purpose of supplying the holder, applicant or proposed applicant to any other business; and

(ii) the person does not engage in activities that relate to the hire of a visa holder to any other business.

(2AB) The person's obligation in subregulation (2AA) applies only in relation to the following:

(a) a primary sponsored person who holds a Subclass 457 (Temporary Work (Skilled)) visa on the basis of satisfying the criteria in subclause 457.223(4) of Schedule 2 (as in force before 18 March 2018);

(b) a primary sponsored person whose last substantive visa was a Subclass 457 (Temporary Work (Skilled)) visa held on the basis of satisfying the criteria in subclause 457.223(4) of Schedule 2 (as in force before 18 March 2018);

(c) a primary sponsored person who holds a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream;

(d) a primary sponsored person whose last substantive visa was a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream.

(2B) If:

(a) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(b) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72C(14);

the person must ensure that:

(c) if the person is, or was, a standard business sponsor—the primary sponsored person is engaged only as:

(i) an employee of the person; or

(ii) an employee of an associated entity of the person; or

(d) if the person is or was a party to a work agreement——the primary sponsored person is engaged only as an employee of the person.

(2BA) If:

(a) the primary sponsored person holds a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the primary sponsored person was a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and

(b) the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72C(14); and

(c) the person is, or was, a standard business sponsor;

the person must ensure that:

(d) the primary sponsored person is employed under a written contract of employment; and

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(e) the person does not engage in activities that relate to the recruitment of a visa holder, an applicant for a visa or a proposed applicant for a visa for the purpose of supplying the holder, applicant or proposed applicant to a business that is not associated with the person; and

(f) the person does not engage in activities that relate to the hire of a visa holder to a business that is not associated with the person.

(2C) If the primary sponsored person holds a visa other than a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, the person must ensure that the primary sponsored person works or participates in the nominated occupation, program or activity in relation to which the primary sponsored person was identified.

(3) The obligations mentioned in subregulations (2) to (2C):

(a) start to apply:

(i) on the day on which the Minister approves a nomination by the person that identifies the primary sponsored person; or

(ii) if the primary sponsored person does not hold a visa mentioned in subregulation (1) on the day the Minister approves the nomination—on the day on which the primary sponsored person is granted the visa on the basis of being identified in an approved nomination by the person; and

(b) end on the earliest of:

(i) the day on which the Minister approves a nomination under section 140GB of the Act by another approved work sponsor in which the primary sponsored person is identified; and

(ii) the day on which the primary sponsored person is granted a further substantive visa that is in effect and is:

(A) if the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa—a visa that is not a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa; or

(B) in any other case—a visa of a different subclass to the last substantive visa held by the primary sponsored person; and

(iii) the first day on which each of the following has occurred:

(A) the primary sponsored person has left Australia;

(B) the visa granted to the primary sponsored person on the basis of being identified in an approved nomination by the person has ceased to be in effect;

(C) if:

(I) the primary sponsored person held a Subclass 020 (Bridging B) visa when the primary sponsored person left Australia; and

(II) the last substantive visa held by the primary sponsored person was the visa granted to the primary

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sponsored person on the basis of being identified in an approved nomination by the person;

the bridging visa has ceased to be in effect.

2.86A Obligation to ensure primary sponsored person works or participates in activity in relation to which the visa was granted

(1) This regulation applies to a person (the ***sponsor***) who is or was an approved work sponsor of:

(a) a primary sponsored person (the ***sponsored person***) who holds a Subclass 408 (Temporary Activity) visa; or

(b) a person (the ***sponsored person***) who was a primary sponsored person if the last substantive visa held by the sponsored person was a Subclass 408 (Temporary Activity) visa.

(2) The sponsor must ensure that the sponsored person undertakes the activity in relation to which the visa was granted.

(3) The obligation mentioned in subregulation (2) starts to apply on the day the visa is granted.

(4) The obligation mentioned in subregulation (2) ceases to apply on the earliest of the following days:

(a) the day on which the sponsored person is granted a further substantive visa that:

(i) is a visa of a different subclass to the last substantive visa held by the sponsored person; and

(ii) is in effect;

(b) the day on which the primary sponsored person is granted a further Subclass 408 (Temporary Activity) visa, if the sponsor is not a sponsor in relation to that further visa;

(c) the first day on which each of the following has occurred:

(i) the primary sponsored person has left Australia;

(ii) the visa referred to in subregulation (1) has ceased to be in effect;

(iii) if the primary sponsored person held a Subclass 020 (Bridging B) visa when the primary sponsored person left Australia, and the last substantive visa held by the primary sponsored person was the visa referred to in subregulation (1)—the bridging visa has ceased to be in effect.

2.87 Obligation not to recover, transfer or take actions that would result in another person paying for certain costs

(1) This regulation applies to a person who is or was an approved work sponsor.

(1A) The person:

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(a) must not take any action, or seek to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs:
  (i) associated with the person becoming an approved work sponsor; or
  (ii) associated with the person being an approved work sponsor; or
  (iii) associated with the person being a former approved work sponsor; or
  (iiia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or
  (iv) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(b) must not take any action, or seek to take any action, that would result in another person paying to the person some or all of the costs, including migration agent costs:
  (i) associated with the person becoming an approved work sponsor; or
  (ii) associated with the person being an approved work sponsor; or
  (iii) associated with the person being a former approved work sponsor; or
  (iiia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or
  (iv) that relate specifically to the recruitment of a non-citizen for the purposes of a nomination under subsection 140GB(1) of the Act; and

(c) if the person has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:
  (i) a Subclass 402 (Training and Research) visa; or
  (ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
  (ib) a Subclass 407 (Training) visa; or
  (ic) a Subclass 408 (Temporary Activity) visa; or
  (ii) a Subclass 416 (Special Program) visa; or
  (iii) a Subclass 488 (Superyacht Crew) visa;

  must not take any action, or seek to take any action, that would result in the transfer to another person of some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(d) if the person has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:
  (i) a Subclass 402 (Training and Research) visa; or
  (ia) a Subclass 403 (Temporary Work (International Relations)) visa; or
  (ib) a Subclass 407 (Training) visa; or
  (ic) a Subclass 408 (Temporary Activity) visa; or
  (ii) a Subclass 416 (Special Program) visa; or
  (iii) a Subclass 488 (Superyacht Crew) visa;

  must not take any action, or seek to take any that would result in another person paying to the person some or all of the costs, including migration

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agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(1B) The person:

(a) must not recover from another person some or all of the costs, including migration agent costs:

(i) associated with the person becoming an approved work sponsor; or

(ii) associated with the person being an approved work sponsor; or

(iii) associated with the person being a former approved work sponsor; or

(iiia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or

(iv) that relate specifically to the recruitment of the primary sponsored person, or a non-citizen, for the purposes of a nomination under subsection 140GB(1) of the Act; and

(b) must not seek to recover from another person some or all of the costs, including migration agent costs:

(i) associated with the person becoming an approved work sponsor; or

(ii) associated with the person being an approved work sponsor; or

(iii) associated with the person being a former approved work sponsor; or

(iiia) associated with a nomination under subsection 140GB(1) of the Act (including a fee mentioned in subregulation 2.73(5) or (7), 2.73A(3) or 2.73B(5) or (7) or nomination training contribution charge); or

(iv) that relate specifically to the recruitment of the primary sponsored person, or a non-citizen, for the purposes of a nomination under subsection 140GB(1) of the Act; and

(c) if the person has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 407 (Training) visa; or

(ic) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

must not recover from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder; and

(d) if the person has agreed to be the work sponsor of an applicant for, proposed applicant for, or holder of:

(i) a Subclass 402 (Training and Research) visa; or

(ia) a Subclass 403 (Temporary Work (International Relations)) visa; or

(ib) a Subclass 407 (Training) visa; or

(ic) a Subclass 408 (Temporary Activity) visa; or

(ii) a Subclass 416 (Special Program) visa; or

(iii) a Subclass 488 (Superyacht Crew) visa;

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must not seek to recover from another person some or all of the costs, including migration agent costs, that relate specifically to the recruitment of that applicant, proposed applicant or holder.

(2A) In addition to subregulations (1A) and (1B), if:

(a) the person is or was:

(i) a temporary activities sponsor in relation to a primary sponsored person or a secondary sponsored person (the ***sponsored person***); or

(ii) a long stay activity sponsor in relation to a primary sponsored person or a secondary sponsored person (the ***sponsored person***); and

(b) either:

(i) the primary sponsored person holds a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream or the Domestic Worker stream; or

(ii) the last substantive visa held by the primary sponsored person was a Subclass 401 (Temporary Work (Long Stay Activity)) visa in the Religious Worker stream or the Domestic Worker stream; or

(iii) the sponsored person holds a Subclass 408 (Temporary Activity) visa granted to the sponsored person on the basis that the primary sponsored person satisfied the criteria in clause 408.223 (religious worker) or 408.224 (domestic worker) of Schedule 2; or

(iv) the last substantive visa held by the sponsored person was a Subclass 408 (Temporary Activity) visa granted to the sponsored person on the basis that the primary sponsored person satisfied the criteria in clause 408.223 (religious worker) or 408.224 (domestic worker) of Schedule 2;

the person must not recover or seek to recover from the sponsored person any expenditure by the person in relation to financial support of the sponsored person in Australia.

(3) If the person is or was approved as a work sponsor in a class of sponsor under subsection 140E(1) of the Act, the obligations mentioned in subregulations (1A), (1B) and (2A):

(a) start to apply on the day on which the person is approved as a work sponsor; and

(b) end on the day on which each of the following has occurred:

(i) the person ceases to be an approved work sponsor;

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(4) If the person is or was a party to a work agreement, the obligations mentioned in subregulations (1A), (1B) and (2A):

(a) start to apply on the day on which the work agreement commences; and

(b) end on the day on which each of the following has occurred:

(i) the person ceases to be a party to a work agreement;

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

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2.87C Obligation not to engage in discriminatory recruitment practices

(1) This regulation applies to a person who:
  (a) is or was a standard business sponsor; and
  (b) is lawfully operating a business in Australia.

(2) The person must not engage in, or have engaged in, discriminatory recruitment practices during the period of the person's approval as a work sponsor.

(3) The obligation referred to in subregulation (2):
  (a) starts to apply on the day the person is, or was, approved as a standard business sponsor; and
  (b) ends when the person ceases, or ceased, to be a standard business sponsor.

Subdivision 2.19.2—Sponsorship obligations of approved family sponsors etc.

2.87CA Sponsorship obligations

(1) For the purposes of subsection 140H(1) of the Act, each of the obligations mentioned in this Subdivision is a sponsorship obligation.

(2) For the purposes of paragraph 140HA(2A)(aa) of the Act, the following expenses are prescribed:
  (a) medical, hospital or other health-related expenses arising from the treatment of a person in a public hospital or other public health facility;
  (b) expenses arising from the provision of an aged care service to a person by an approved provider of a kind mentioned in section 8-6 of the *Aged Care Act 1997*.

2.87CB Obligation to keep records

(1) A person who is or was an approved family sponsor must keep records of a kind, and in a manner, specified in an instrument under subregulation (2) during the period:
  (a) starting on the sponsorship start day for the person; and
  (b) ending 2 years after the day the person ceases to be an approved family sponsor.

(2) The Minister may, by legislative instrument, specify either or both of the following for the purposes of subregulation (1):
  (a) a kind of record;
  (b) a manner of keeping records of that kind.

2.87CC Obligation to give records to the Minister

(1) If a person who is or was an approved family sponsor is given a notice under subregulation (2) during the period:
  (a) starting on the sponsorship start day for the person; and

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(b) ending 2 years after the day the person ceases to be an approved family sponsor;

the person must comply with the notice.

(2) The Minister may, by written notice given to a person who is or was an approved family sponsor, request the person to give, within a specified period and in a specified manner, either or both of the following to the Minister:

(a) a record of a kind that the person is required to keep under regulation 2.87CB;

(b) records:

(i) that the person is required to keep under a law of the Commonwealth, or of a State or Territory, that applies to the person; and

(ii) that relate to the administration of Division 3A of Part 2 of the Act and the regulations made under that Division.

(3) The period specified in the notice must not end less than 7 days after the person is taken to have received the notice.

Note: See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

2.87CD Obligation to give information to Immigration when certain events occur

(1) If an event mentioned in subregulation (2) occurs in relation to a person who is an approved family sponsor, the person must give details of the event to Immigration:

(a) within 28 days of the event occurring; and

(b) in the manner specified in an instrument under subregulation (3).

(2) The events are the following:

(a) a change to any information provided to Immigration whether in the person's application for approval as a family sponsor or otherwise;

(b) the person is charged with, or convicted of, an offence;

(c) a debt the person has incurred to the Commonwealth becomes overdue;

(d) the person becomes the subject of an apprehended violence order, or a similar order, issued under a law of a State or Territory or a foreign country;

(e) a person sponsored by the person dies.

(3) The Minister may, by legislative instrument, specify a manner for the purposes of paragraph (1)(b).

2.87CE Obligation to pay outstanding public health debt of sponsored person

(1) This regulation applies to a person (the ***first person***) who is or was the parent sponsor of another person (the ***sponsored person***).

(2) If:

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(a) the sponsored person has an outstanding public health debt; and
(b) the debt relates to an expense incurred by the sponsored person:
(i) during the period in which the first person is the parent sponsor of the sponsored person; or
(ii) during the period after the first person ceases to be the parent sponsor of the sponsored person but before the sponsored person next leaves Australia or is granted a permanent visa;

the first person must, as soon as practicable, pay the debt in full.

2.87CF Obligation to support sponsored person financially and in respect of accommodation

A person who is or was the parent sponsor of another person (the ***sponsored person***) must assist the sponsored person, to the extent necessary, financially and in relation to accommodation during the period:

(a) starting at the time the sponsored person is granted a Subclass 870 (Sponsored Parent (Temporary)) visa; and
(b) ending at the time:
(i) a Subclass 870 (Sponsored Parent (Temporary)) visa held by the sponsored person has ceased to be in effect and the sponsored person has left Australia; or
(ii) the sponsored person is granted a substantive visa.

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Division 2.19A—Publishing information about sanctions

2.87D Publishing information about sanctions

(1) For the purposes of subsection 140K(4) of the Act, the information that must be published by the Minister under that subsection is the following:

(a) information that identifies the approved sponsor or former approved sponsor who failed to satisfy an applicable sponsorship obligation;

(b) the applicable sponsorship obligation that the approved sponsor or former approved sponsor failed to satisfy;

(c) information relating to the action taken under section 140K of the Act in relation to the approved sponsor or former approved sponsor.

(2) For the purposes of subsection 140K(7) of the Act, the Minister is not required to publish information under subsection 140K(4) of the Act that relates to an approved family sponsor or former approved family sponsor.

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Division 2.20—Circumstances in which sponsor may be barred or sponsor's approval may be cancelled

2.88 Preliminary

For subparagraphs 140L(1)(a)(i) and (ii) of the Act, each of the circumstances mentioned in this Division is a circumstance in which the Minister may take one or more of the actions mentioned in section 140M of the Act.

Note: The Minister cannot take action against a party to a work agreement under section 140M of the Act. The terms of the work agreement will provide for whether the agreement can be cancelled or whether the person can be barred from doing certain things under the agreement.

2.89 Failure to satisfy sponsorship obligation

(1) This regulation applies to a person who is or was:
  (a) a standard business sponsor in relation to a primary sponsored person or a secondary sponsored person; or
  (b) a professional development sponsor in relation to a primary sponsored person; or
  (c) a temporary work sponsor in relation to a primary sponsored person or a secondary sponsored person; or
  (d) a temporary activities sponsor in relation to a primary sponsored person or a secondary sponsored person; or
  (e) a parent sponsor.

(2) For subparagraph 140L(1)(a)(i) of the Act, the circumstance is that the Minister is satisfied that the person has failed to satisfy a sponsorship obligation mentioned in Division 2.19.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
  (a) the past and present conduct of the person in relation to Immigration; and
  (b) the number of occasions on which the person has failed to satisfy the sponsorship obligation; and
  (c) the nature and severity of the circumstances relating to the failure to satisfy the sponsorship obligation, including the period of time over which the failure has occurred; and
  (d) the period of time over which the person has been an approved sponsor; and
  (e) whether, and the extent to which, the failure to satisfy the sponsorship obligation has had a direct or indirect impact on another person; and
  (f) whether, and the extent to which, the failure to satisfy the sponsorship obligation was intentional, reckless or inadvertent; and

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(g) whether, and the extent to which, the person has cooperated with Immigration, including whether the person informed Immigration of the failure; and
(h) the steps (if any) the person has taken to rectify the failure to satisfy the sponsorship obligation, including whether the steps were taken at the request of Immigration or otherwise; and
(i) the processes (if any) the person has implemented to ensure future compliance with the sponsorship obligation; and
(j) the number of other sponsorship obligations that the person has failed to satisfy, and the number of occasions on which the person has failed to satisfy other sponsorship obligations; and
(k) any other relevant factors.

2.90 Provision of false or misleading information

(1) This regulation applies to a person who is or was:
(a) a standard business sponsor; or
(b) a professional development sponsor; or
(c) a temporary work sponsor; or
(d) a temporary activities sponsor; or
(e) a parent sponsor.

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance is that the Minister is satisfied that the person has provided false or misleading information to Immigration or the ART.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
(a) the purpose for which the information was provided; and
(b) the past and present conduct of the person in relation to Immigration; and
(c) the nature of the information; and
(d) whether, and the extent to which, the provision of false or misleading information has had a direct or indirect impact on another person; and
(e) whether the information was provided in good faith; and
(f) whether the person notified Immigration immediately upon discovering that the information was false or misleading; and
(g) any other relevant factors.

2.91 Application or variation criteria no longer met

(1) This regulation applies to a person who is or was:
(a) a standard business sponsor; or
(b) a professional development sponsor; or
(c) a temporary work sponsor; or
(d) a temporary activities sponsor; or

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(e) a parent sponsor.

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance is that the Minister is satisfied that:

(a) the person no longer satisfies the criteria prescribed under subsection 140E(1) or (1A) of the Act at the time the person was approved as a work sponsor or family sponsor (as the case may be); or

(b) if the terms of the approval of the person as a standard business sponsor, temporary work sponsor, temporary activities sponsor or parent sponsor have been varied—the person no longer satisfies the criteria prescribed under section 140GA of the Act at the time of the approval of the variation.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:

(a) the nature of the applicable sponsorship criteria that the person no longer meets; and

(b) whether, and the extent to which, the failure to continue to satisfy the criteria for approval as a work sponsor or family sponsor, or to continue to satisfy the criteria for approval of a variation, has had a direct or indirect impact on another person; and

(c) the reason why the person no longer satisfies the applicable sponsorship criteria, including whether the failure to satisfy the criteria is within the person's control; and

(d) the steps (if any) the person has taken to ensure that the person will satisfy the applicable criteria in the future; and

(e) any other relevant factors.

2.92 Contravention of law

(1) This regulation applies to a person who is or was:

(a) a standard business sponsor; or

(b) a professional development sponsor; or

(c) a temporary work sponsor; or

(d) a temporary activities sponsor; or

(e) a parent sponsor.

Contravention of law by person

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance for the person is that the Minister is satisfied that the person has been found by a court or a competent authority to have contravened a Commonwealth, State or Territory law.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstances mentioned in subregulation (2) are:

(a) the past and present conduct of the person; and

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(b) the nature of the law that the person has contravened; and
(c) the gravity of the unlawful activity; and
(d) any other relevant factors.

Contravention of law by primary sponsored person

(4) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance for a standard business sponsor, a temporary activities sponsor or a temporary work sponsor, in relation to a primary sponsored person, is that the Minister is satisfied that each of the following applies:
(a) the primary sponsored person has been found by a court or a competent authority to have contravened a Commonwealth, State or Territory law;
(b) the law was a law relating to the licensing, registration or membership of the primary sponsored person in relation to the primary sponsored person's approved occupation;
(c) the primary sponsored person was required to comply with the law in order to work in the occupation nominated by the standard business sponsor, temporary activities sponsor or temporary work sponsor and approved by the Minister.

(5) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstances mentioned in subregulation (4) are:
(a) whether the person took reasonable steps to prevent the primary sponsored person from contravening a law relating to a licensing, registration or membership requirement of the primary sponsored person's approved occupation; and
(b) whether any other primary sponsored person, while in the employ of the person, has been found by a court or a competent authority to have contravened a law relating to a licensing, registration or membership requirement; and
(c) the processes (if any) the person has implemented to ensure future compliance with the licensing, registration or membership requirements of a primary sponsored person's approved occupation; and
(d) any other relevant factors.

2.93 Unapproved change to professional development program or special program

(1) This regulation applies to a person who is or was:
(a) a professional development sponsor; or
(b) a special program sponsor; or
(c) a temporary activities sponsor who is conducting, or has conducted, a program referred to in subclause 408.228(2) (youth exchange program) or (5) (other program) of Schedule 2.

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance is that the Minister is satisfied that the person made a change to:

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(a) if the person is or was a professional development sponsor—the professional development program; or
(b) if the person is or was a special program sponsor—the special program; or
(c) if the person is or was a temporary activities sponsor referred to in paragraph (1)(c)—the program referred to in that paragraph;

without the approval in writing of the Secretary.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must to take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
(a) the severity of the conduct; and
(b) the past conduct of the person in relation to Immigration; and
(c) the impact, if any, that the taking of the action may have on the Australian community; and
(d) the extent to which the barring of the person as a work sponsor will be an adequate means of dealing with the matter, having regard to:
(i) the seriousness of the inability, or of the failure, to comply; and
(ii) the past conduct of the person; and
(e) any other relevant factors.

2.94 Failure to pay additional security

(1) This regulation applies to a person who is or was a professional development sponsor.

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance is that the Minister is satisfied that the person has failed to pay an additional security requested by an authorised officer under section 269 of the Act.

(3) For subregulation (2), a person has failed to pay an additional security if the person has failed to pay the security:
(a) within 28 days of the day on which the person was requested to pay the security; or
(b) within a longer period as allowed by an authorised officer in the request.

(4) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must to take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
(a) the severity of the conduct; and
(b) the past conduct of the person in relation to Immigration; and
(c) the impact, if any, that the taking of the action may have on the Australian community; and
(d) the extent to which the barring of the person as a work sponsor will be an adequate means of dealing with the matter, having regard to:
(i) the seriousness of the inability, or of the failure, to comply; and
(ii) the past conduct of the person; and
(e) any other relevant factors.

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2.94A Failure to comply with certain terms of special program agreement or professional development agreement

(1) This regulation applies to a person who is or was:
  (a) a special program sponsor; or
  (b) a professional development sponsor; or
  (c) a temporary activities sponsor who is conducting, or has conducted, a program referred to in subclause 408.228(2) (youth exchange program) or (5) (other program) of Schedule 2.

(2) For subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance is that the Minister is satisfied that:
  (a) if the person is or was a special program sponsor—the person has not complied with a term or condition of the special program agreement in relation to which the special program sponsor was approved; or
  (b) if the person is or was a professional development sponsor—the person has not complied with a term or condition of the professional development agreement in relation to which the professional development sponsor was approved; or
  (c) if the person is or was a temporary activities sponsor—the person has not complied with a term or condition of the special program agreement referred to in paragraph 408.228(2)(c) or (5)(c) (as the case requires) of Schedule 2.

(3) For paragraph 140L(1)(b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
  (a) the past and current conduct of the person in relation to Immigration; and
  (b) the extent to which the person has not complied with the special program agreement or professional development agreement; and
  (c) the number of occasions on which the person has failed to comply with the special program agreement or professional development agreement; and
  (d) any other relevant factors.

2.94B Change of circumstances relating to approved family sponsor etc.

For the purposes of subparagraph 140L(1)(a)(ii) of the Act, an additional circumstance in relation to a person (the ***first person***) who is or was an approved family sponsor of another person (the ***sponsored person***) is that the Minister is satisfied of any of the following:
  (a) the first person has been involved in:
    (i) activities that endanger or threaten any individual; or
    (ii) activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community;
  (b) adverse information about the first person, or another person associated with the first person, has become known to Immigration;

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(c) the first person, or the sponsored person, has an outstanding public health debt;

(d) there has been a material change in the circumstances on the basis of which the first person was approved as a family sponsor.

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Division 2.21—Process to bar sponsor or cancel sponsor's approval

2.95 Preliminary

(1) This Division applies to a person who is or was an approved sponsor (other than a party to a work agreement).

Note: The Minister cannot take action against a party to a work agreement under section 140M of the Act. The terms of the work agreement will provide for whether the agreement can be cancelled or whether the person can be barred from doing certain things under the agreement.

(2) If the Minister is taking action against a person under section 140M of the Act, the Minister must do so in accordance with the process set out in this Division.

2.96 Notice of intention to take action

(1) If the Minister is considering taking action under section 140M of the Act in relation to the person, the Minister must give a written notice to the person.

(2) The notice must:
(a) specify details of the circumstances prescribed under section 140L of the Act in relation to which action is being considered; and
(b) specify details of the actions that the Minister may take; and
(c) specify the address for providing a response to the Minister; and
(d) be given using a method mentioned in section 494B of the Act; and
(e) specify a date for a response not earlier than 7 days after the date a person is taken to have received the notice by section 494C of the Act.

2.97 Decision

The Minister must consider a response before making a decision if the person:
(a) provides a response to the Minister before the date mentioned in paragraph 2.96(2)(e); or
(b) provides a response:
(i) after the date mentioned in paragraph 2.96(2)(e); and
(ii) before the Minister has made the decision.

2.98 Notice of decision

(1) If the Minister decides to take action under section 140M of the Act, the Minister must notify the person, in writing, of the following matters:
(a) the decision taken by the Minister, including the effect of the decision;
(b) the grounds for making the decision;
(c) if the person has a right to have the decision reviewed by application under Part 5 of the Act—state:
(i) that the decision can be reviewed by the ART; and
(ii) the time in which the application for review may be made; and

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(iii) who can apply for the review; and
(iv) where the application for review may be made;

(d) if an action is to bar the person:
(i) details of how the person can apply for a waiver of the bar; and
(ii) the address to which a request for a waiver, if made, must be sent.

(2) If a notice is issued under regulation 2.96, and the Minister decides to take no action under section 140M of the Act, the Minister must notify the person, in writing, of the decision to take no action.

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Division 2.22—Waiving a bar on sponsor's approval

2.99 Application

This Division applies to a person who is or was an approved sponsor other than a party to a work agreement.

2.100 Circumstances in which a bar may be waived

For subsection 140O(2) of the Act, a circumstance in which the Minister may waive a bar is that the Minister has received a request from the person to waive the bar.

2.101 Criteria for waiving a bar

(1) For the purposes of subsection 140O(3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive a bar placed on an approved work sponsor are:

(a) whether the person has made the request to waive the bar in accordance with the process set out in regulation 2.102; and

(b) if the Minister has not previously refused to waive the bar:

(i) whether the interests of Australia would be significantly affected if the bar were not waived; and

(ii) whether a substantial trade opportunity would be lost if the bar were not waived; and

(iii) whether there would be a significant detriment to the Australian community if the bar were not waived; and

(iv) whether the person's inability to sponsor a proposed primary sponsored person would significantly damage Australia's relations with the government of another country; and

(v) whether significant new evidence or information has come to light which was not available at the time the decision to place the bar was made; and

(c) if the Minister has previously refused to waive the bar, whether the circumstances relevant to the making of the earlier decision have changed substantially.

(2) For the purposes of subsection 140O(3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive a bar placed on an approved family sponsor are:

(a) whether the person has made the request to waive the bar in accordance with the process set out in regulation 2.102; and

(b) whether significant new evidence or information has come to light which was not available at the time the decision to place the bar was made; and

(c) whether there are exceptional circumstances that justify waiving the bar.

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Regulation 2.102

2.102 Process to waive a bar

(1) For section 140P of the Act, the Minister may waive a bar placed on the person under section 140M of the Act in accordance with the process set out in this regulation.

(2) A request from the person to the Minister to waive the bar must:
  (a) be in writing; and
  (b) be sent to the address specified in the notice from the Minister mentioned in regulation 2.98.

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Division 2.22A—Inspectors

2.102A Period of appointment

For subsection 140V(2) of the Act, the period specified in an instrument of appointment issued under subsection 140V(1) of the Act must not exceed 4 years.

2.102C Purposes for which powers of inspectors may be exercised

For paragraph 140X(b) of the Act, the purposes for which an inspector may exercise his or her powers are:

(a) determining whether a term or a condition of a work agreement is being, or has been, complied with; and

(b) determining whether a circumstance prescribed under section 140L of the Act exists or has existed; and

(c) investigating a circumstance, if a circumstance exists or has existed, in order to assist the Minister in determining what (if any) action to take under section 140M of the Act.

Note 1: These purposes are additional to the purpose of determining whether a sponsorship obligation is being, or has been, complied with—see paragraph 140X(a) of the Act.

Note 2: Section 140L of the Act allows the regulations to prescribe circumstances in which an approved sponsor may be barred or an approved sponsor's approval may be cancelled. These circumstances are prescribed in Division 2.20.

Note 3: Section 140M of the Act enables the Minister to cancel the approval of an approved sponsor or to bar an approved sponsor if regulations are prescribed under section 140L of the Act.

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Division 2.22B—Liability and recovery of amounts

2.102D Liability to pay amounts

For the purposes of subsection 140S(1) of the Act, the amount that a person is required to pay under subregulation 2.87CE(2) is prescribed in relation to the sponsorship obligation mentioned in that subregulation.

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Division 2.23—Disclosure of personal information

2.103 Disclosure of personal information by Minister—approved work sponsors etc.

Information about visa holders or former visa holders

(1) For the purposes of subsection 140ZH(1) of the Act, the kinds of information about a holder, or former holder, of a visa of a kind mentioned in subregulation (2A) that may be disclosed by the Minister in accordance with that subsection are:

(a) information relating to a failure to comply with a visa condition; and

(b) information about the immigration status of the visa holder or former visa holder; and

(c) information about the terms and conditions of employment of the visa holder or former visa holder; and

(d) information about costs incurred by the Commonwealth in relation to the visa holder or former visa holder; and

(e) information about an allegation made by the visa holder or former visa holder (or presumed to be made by the visa holder or former visa holder) that:

(i) an approved work sponsor, or a former approved work sponsor, of the visa holder or former visa holder has failed to satisfy a sponsorship obligation under Subdivision 2.19.1 (which deals with sponsorship obligations of approved work sponsors etc.); or

(ii) a circumstance prescribed under section 140L of the Act may exist in relation to an approved work sponsor, or former approved work sponsor, of the visa holder or former visa holder; and

(f) information about a debt, relating to the visa holder or former visa holder, owed by an approved work sponsor or former approved work sponsor.

Information about approved work sponsors or former approved work sponsors

(2) For the purposes of subsection 140ZH(1) of the Act, the kinds of information about an approved work sponsor, or former approved work sponsor, of a holder or former holder of a visa of a kind mentioned in subregulation (2A) that may be disclosed by the Minister in accordance with that subsection are:

(a) information relating to a failure, or a possible failure, to satisfy a sponsorship obligation prescribed under subsection 140H(1) of the Act; and

(b) information that a circumstance prescribed under section 140L of the Act may exist; and

(c) information about a warning given in relation to the possible existence of a circumstance prescribed under section 140L of the Act; and

(d) information about an action taken under section 140M of the Act; and

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(e) information about a pecuniary penalty imposed for a contravention of section 140Q of the Act; and
(f) information about a warning given in relation to a possible contravention of section 140Q of the Act; and
(g) information about an infringement notice issued under section 506A of the Act; and
(h) information about the outcome of monitoring by an inspector exercising powers under Subdivision F of Division 3A of Part 2 of the Act; and
(i) information provided to the Minister in accordance with regulation 2.83; and
(j) information provided to Immigration in accordance with regulation 2.84; and
(k) information relevant to the performance of a function by a Commonwealth, State or Territory agency of a kind mentioned in subregulation (3).

Note: Regulation 2.83 prescribes a sponsorship obligation to provide records and information to the Minister. Regulation 2.84 prescribes a sponsorship obligation to provide information to Immigration when certain events occur.

Prescribed visas

(2A) For the purposes of column 2 of items 1 and 2 of the table in subsection 140ZH(1) of the Act, the kinds of visa mentioned in regulation 2.56 (other than a Subclass 870 (Sponsored Parent (Temporary)) visa) are prescribed.

Prescribed agencies

(3) For the purposes of column 3 of items 1 and 2 of the table in subsection 140ZH(1) of the Act, a Commonwealth, State or Territory agency responsible for the regulation of one or more of the following matters is prescribed:
(a) education;
(b) fair trading;
(c) health;
(d) industrial relations;
(e) law enforcement;
(f) public safety;
(g) registration and licensing in relation to an occupation;
(h) taxation;
(i) trade practices;
(j) workplace safety;
(k) workplace training.

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2.103A Disclosure of personal information by Minister—approved family sponsors etc.

Information about visa holders or former visa holders

(1) For the purposes of subsection 140ZH(1A) of the Act, the kinds of information about a holder, or former holder, of a Subclass 870 (Sponsored Parent (Temporary)) visa that may be disclosed by the Minister in accordance with that subsection are:

(a) information relating to a failure to comply with a visa condition; and

(b) information about the immigration status of the visa holder or former visa holder; and

(c) information about costs incurred by the Commonwealth in relation to the visa holder or former visa holder; and

(d) information about an allegation made by the visa holder or former visa holder (or presumed to be made by the visa holder or former visa holder) that:

(i) an approved family sponsor, or a former approved family sponsor, of the visa holder or former visa holder has failed to satisfy a sponsorship obligation under Subdivision 2.19.2 (which deals with sponsorship obligations of approved family sponsors etc.); or

(ii) a circumstance prescribed under section 140L of the Act may exist in relation to an approved family sponsor, or former approved family sponsor, of the visa holder or former visa holder; and

(e) information about a debt, relating to the visa holder or former visa holder, owed by an approved family sponsor or former approved family sponsor.

Information about approved family sponsors or former approved family sponsors

(2) For the purposes of subsection 140ZH(1A) of the Act, the kinds of information about an approved family sponsor, or former approved family sponsor, of a holder or former holder of a Subclass 870 (Sponsored Parent (Temporary)) visa that may be disclosed by the Minister in accordance with that subsection are:

(a) information relating to a failure, or a possible failure, to satisfy a sponsorship obligation prescribed under subsection 140H(1) of the Act; and

(b) information that a circumstance prescribed under section 140L of the Act (which is about circumstances in which an approved sponsor may be barred or an approved sponsor's approval cancelled) may exist; and

(c) information about a warning given in relation to the possible existence of a circumstance prescribed under section 140L of the Act (which is about circumstances in which an approved sponsor may be barred or an approved sponsor's approval cancelled); and

(d) information about an action taken under section 140M of the Act (which is about cancelling approval as an approved sponsor or barring such a sponsor); and

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(e) information about a pecuniary penalty imposed for a contravention of section 140Q of the Act (which is a civil penalty provision about failing to satisfy sponsorship obligations); and
(f) information about a warning given in relation to a possible contravention of section 140Q of the Act (which is a civil penalty provision about failing to satisfy sponsorship obligations); and
(g) information about an infringement notice issued under section 506A of the Act; and
(h) information provided to the Minister in accordance with regulation 2.87CC; and
(i) information provided to Immigration in accordance with regulation 2.87CD; and
(j) information relevant to the performance of a function by a Commonwealth, State or Territory agency of a kind mentioned in subregulation (4).

Prescribed visa

(3) For the purposes of column 2 of items 1, 2 and 5 of the table in subsection 140ZH(1A) of the Act, the Subclass 870 (Sponsored Parent (Temporary)) visa is prescribed.

Prescribed agencies

(4) For the purposes of column 3 of items 1 to 5 of the table in subsection 140ZH(1A) of the Act, a Commonwealth, State or Territory agency responsible for the regulation of one or more of the following matters is prescribed:
(a) health;
(b) law enforcement;
(c) public safety;
(d) taxation.

2.104 Circumstances in which the Minister may disclose personal information

(1) For the purposes of subsection 140ZH(2) of the Act, this regulation sets out the circumstances in which the Minister may disclose personal information under subsection 140ZH(1) or (1A) of the Act.

(2) Each of the following are circumstances in which the Minister may disclose personal information to a visa holder or a former visa holder:
(a) the disclosure of the information may assist Immigration in determining:
(i) whether an approved sponsor or a former approved sponsor has failed to satisfy a sponsorship obligation; or
(ii) whether a circumstance prescribed under section 140L of the Act exists in relation to an approved sponsor or a former approved sponsor of the visa holder or the former visa holder;
(b) the disclosure of the information may assist the visa holder or former visa holder to recover a debt under section 140S of the Act;

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(c) the disclosure of the information will notify the visa holder or the former visa holder that their approved sponsor or former approved sponsor has been sanctioned:
  (i) for a failure to satisfy a sponsorship obligation prescribed under section 140H of the Act; or
  (ii) due to the existence of a circumstance prescribed under section 140L of the Act;
(d) the disclosure of the information will notify the visa holder or the former visa holder of the outcome of an allegation made by the visa holder or the former visa holder in relation to an approved sponsor or a former approved sponsor.

(3) Each of the following are circumstances in which the Minister may disclose personal information to an approved sponsor or a former approved sponsor:
(a) the disclosure of the information may assist the approved sponsor or former approved sponsor:
  (i) to respond to a claim that a sponsorship obligation has not been satisfied; or
  (ii) to respond to a claim that a circumstance prescribed under section 140L of the Act exists; or
  (iii) to satisfy a sponsorship obligation; or
  (iv) to meet a liability to a visa holder or a former visa holder;
(b) the disclosure of the information will notify the approved sponsor or former approved sponsor that he or she is no longer the approved sponsor of a visa holder or a former visa holder;
(c) if the approved sponsor or former approved sponsor is an approved work sponsor or former approved work sponsor—the disclosure of the information will notify that sponsor of the cancellation of a visa held by a person who is or was a primary sponsored person, or a secondary sponsored person, of that sponsor;
(d) if the approved sponsor or former approved sponsor is an approved family sponsor or former approved family sponsor—the disclosure of the information will notify that sponsor of the cancellation of a visa held by a person who is or was sponsored by that sponsor.

(4) Each of the following are circumstances in which the Minister may disclose personal information to an agency of the Commonwealth or a State or Territory of a kind mentioned in subregulation 2.103(3) or 2.103A(4):
(a) the disclosure of the information may assist the agency to perform its functions;
(b) the disclosure of the information may assist Immigration in determining:
  (i) whether an approved sponsor or a former approved sponsor has satisfied a sponsorship obligation; or
  (ii) whether a circumstance prescribed under section 140L of the Act exists in relation to an approved sponsor or a former approved sponsor.

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2.105 Circumstances in which a recipient may use or disclose personal information

For the purposes of subsection 140ZH(3) of the Act, the circumstance in which a recipient of personal information disclosed under subsection 140ZH(1) or (1A) of the Act may use or disclose that information is that the information is to be used or disclosed by the recipient in the same circumstances in which it was disclosed to the recipient.

2.106 Disclosure of personal information to Minister

For subsection 140ZI(1) of the Act, the kind of personal information that the Minister may request an approved sponsor or a former approved sponsor of a visa holder or a former visa holder to disclose to the Minister is the contact details of the visa holder or the former visa holder.

Examples

1 a postal address

2 a residential address

3 a telephone number

4 a personal website

5 an email address.

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Part 3—Immigration clearance and collection of information

Division 3.1—Information to be given

3.01 Provision of information (general requirement)

(1) In this regulation:

officer includes a clearance officer.

(2) This regulation applies to:
  (a) a person who is an overseas passenger:
    (i) arriving on board a vessel at a port in Australia in the course of, or at the conclusion of, an overseas flight or an overseas voyage; or
    (ii) leaving Australia on board a vessel bound for or calling at a place outside Australia; and
  (b) a person on board an aircraft arriving at, or departing from, an airport in Australia, being an aircraft operated by an international air carrier;

other than:
  (c) a person included in a class of persons set out in an item in Part 1 of Schedule 9, being an item in which the word "no" appears in column 4; and
  (d) a person who, under regulation 3.06, is not required to complete a passenger card; and
  (e) a person who enters Australia:
    (i) on a non-military ship; and
    (ii) as a member of the crew of that non-military ship, or as a member of the family unit of a member of the crew of that non-military ship.

(3) A person to whom this regulation applies who is arriving in Australia must:
  (a) complete a passenger card:
    (i) in relation to the person and to any other person that person is in charge of on the relevant flight or voyage; and
    (ii) in accordance with directions set out on the passenger card; and
  (b) provide the completed passenger card to an officer.

(4) An officer may require a person to whom this regulation applies to provide to the officer information about that person in respect of any of the following matters:
  (a) name;
  (b) date of birth and country of birth;
  (c) citizenship;
  (d) sex, and marital or relationship status;
  (e) usual occupation;
  (f) passport number;
  (g) if the person is not:

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(i) an Australian citizen; or
(ii) a person who is eligible for the grant of a Special Category visa; or
(iii) a person who will on entry be taken to hold a special purpose visa;

the number of the Australian visa held by the person;

(h) flight number of aircraft or name of ship in relation to the relevant flight or voyage;

(i) country in which the person boarded, or intends to disembark from, the aircraft or ship;

(j) if the person is entering Australia—the intended address of the person in Australia.

3.02 Passenger cards for persons entering Australia

(1) A passenger card for a person entering Australia must include the following questions, or substantially similar questions:
(a) "Do you currently suffer from tuberculosis?";
(b) "Do you have any criminal conviction/s?".

(2) The questions set out in subregulation (1):
(a) may be printed on the passenger card in any order; and
(b) may be numbered in any way.

(3) The passenger card may include instructions for completing it, including instructions that questions are to be answered by ticks or other symbols.

3.03 Evidence of identity and visa for persons entering Australia (Act s 166)

(1A) For the purposes of subparagraph 166(1)(a)(i) of the Act, an image of a person's face and shoulders is prescribed as other evidence of the person's identity and Australian citizenship.

(1) For paragraph 166(1)(b) of the Act, the information required to be provided to a clearance authority is that set out in regulation 3.02.

(2A) For the purposes of subsection 166(3) of the Act, a person who seeks to comply with subparagraph 166(1)(a)(i) of the Act by presenting an image of the person's face and shoulders must do so by presenting themselves to an authorised system.

(2) For subsection 166(3) of the Act, an Australian citizen who is required to comply with section 166 of the Act must provide a completed passenger card to a clearance officer.

(3) For subsection 166(3) of the Act, a non-citizen who is required to comply with section 166 of the Act must:
(a) if the non-citizen is taken to hold a special purpose visa—provide a completed passenger card to a clearance officer if required by Part 1 of Schedule 9 and present:
(i) the non-citizen's passport to an authorised system; or

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(ii) an image of the non-citizen's face and shoulders by presenting themselves to an authorised system; or

(iii) evidence of the non-citizen's identity, as specified in that Part, to a clearance officer; and

(b) if the non-citizen is eligible to hold a special category visa:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present a New Zealand passport that is in force to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(d) if the non-citizen holds an Electronic Travel Authority (Class UD) visa:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(e) if the non-citizen is a person mentioned in paragraph 1223A(1)(c) of Schedule 1, as in force before 23 March 2013, who holds a Temporary Business Entry (Class UC) visa:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(ea) if the non-citizen holds a Subclass 600 (Visitor) visa granted on the basis of an application which was taken to have been validly made under regulation 2.07AA:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(f) if the non-citizen holds a Subclass 417 (Working Holiday) or Subclass 676 (Tourist) visa granted on the basis of an Internet application:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(fa) if the non-citizen holds a Subclass 600 (Visitor) visa granted on the basis of an Internet application:

(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer; and

(g) if the non-citizen holds a Visitor (Class TV) visa:

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(i) present an image of the non-citizen's face and shoulders by presenting themselves to an authorised system or present evidence of the non-citizen's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and

(ii) provide a completed passenger card to a clearance officer.

Note: ***Internet application*** is defined in regulation 1.03.

(4) For the purposes of subsection 166(3) of the Act, a non-citizen who is required to comply with section 166 of the Act (other than a non-citizen mentioned in subregulation (3)) must:

(a) present:

(i) an image of the non-citizen's face and shoulders by presenting themselves to an authorised system; or

(ii) the non-citizen's passport to a clearance authority; and

(b) if the non-citizen's visa is evidenced by a label and a clearance officer asks for the label to be shown—present the label to a clearance officer; and

(c) provide a completed passenger card to a clearance officer.

(5) In this regulation:

authorised system means an automated system that is an authorised system for the purposes of section 166 of the Act.

3.03AA Evidence of identity and providing information—non-military ships (Act s 166)

(1) This regulation applies to a person who is the holder of a Maritime Crew (Temporary) (Class ZM) visa.

Note: This regulation does not apply to holders of a Subclass 988 (Maritime Crew) visa who are petroleum export tanker crew members: see item 12 of Part 2 of Schedule 9.

(2) For paragraph 166(1)(b) of the Act, the information is as much of the information in the table as is required by a clearance officer:

Item	Information
If the person arrives in Australia on a non-military ship	
101	a document that identifies the person as being a member of the crew of the non-military ship on which the person arrived (for example, a contract of employment, a crew list, a supernumerary crew list or a seafarer identity card)
102	a document that indicates that the person is a member of the family unit of a member of the crew of a non-military ship (for example, a marriage certificate, a birth certificate or an adoption certificate)

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Item	Information
104	a statement from the master, owner, agent, charterer or operator of a non-military ship that the person is: (a) a member of the crew of the non-military ship; or (b) a member of the family unit of a member of the crew of the non-military ship; or (c) a member of the family unit of a person who is under an offer to become a member of the crew of the non-military ship
105	any information mentioned in subregulation 3.01(4)
If the person arrives in Australia by air	
201	a document that indicates the person is under an offer to become a member of the crew of a non-military ship (a ***prospective member of the crew***)
202	a document that indicates that the person is a member of the family unit of: (a) a member of the crew of a non-military ship; or (b) a prospective member of the crew; (for example, a marriage certificate, a birth certificate or an adoption certificate)
204	a statement from the master, owner, agent, charterer or operator of a non-military ship that the person is: (a) a prospective member of the crew; or (b) a member of the family unit of a member of the crew of the non-military ship; or (c) a member of the family unit of a person who is a prospective member of the crew
205	any information mentioned in subregulation 3.01(4)

(3) For subsection 166(3) of the Act, if the person enters Australia as:
   (a) a member of the crew on a non-military ship; or
   (b) a member of the family unit of a member of the crew of a non-military ship;

the requirements relating to passenger cards in subregulations 3.03(3) and (4) do not apply in relation to the person.

3.03AB Exemption from requirements to complete a passenger card where Australia Travel Declaration provided

(1) The requirements relating to completing or providing a passenger card in these Regulations do not apply to a person who is arriving in Australia if:
   (a) the person has submitted an Australia Travel Declaration; and
   (aa) the person has received an electronic message, generated by the departmental system that processes such declarations, showing that the person has submitted that declaration; and
   (ab) if requested by a clearance officer, the person:
      (i) presents the electronic message to the clearance officer; and
      (ii) confirms to the clearance officer that the information provided in the Australia Travel Declaration is correct; and
   (b) before an event referred to in subparagraph 172(1)(a)(iii) or (b)(iii) of the Act occurs:

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(i) the person has not withdrawn the Australia Travel Declaration; and
(ii) a clearance officer does not require the person to provide a completed passenger card under subregulation (2).

(2) A clearance officer may require the person to provide a completed passenger card if circumstances specified in an instrument under subregulation (3) exist.

(3) The Minister may, by legislative instrument, specify a matter for the purposes of subregulation (2).

3.04 Place and time for giving evidence (Act, s 167)

For the purposes of subsection 167(2) of the Act (which deals with the time and place at which a person who enters Australia must comply with section 166):

(a) the place at which a person who is required to comply with section 166 must do so is:
(i) a regional or area office of Immigration; or
(ii) at any place where there is a clearance officer, including a port; and
(b) the period within which the person must do so is 2 working days after he or she enters Australia.

3.05 Allowed inhabitants of the Protected Zone (Act, s 168(2))

For the purposes of subsection 168(2) of the Act (which deals with compliance with section 166 by allowed inhabitants of the Protected Zone):

(a) the place at which an allowed inhabitant of the Protected Zone who is required to comply with section 166 must do so is:
(i) a regional or area office of Immigration; or
(ii) at any place where there is a clearance officer, including a port; and
(b) the period within which the inhabitant must do so is 5 working days after he or she goes to a part of the migration zone outside the protected area.

3.06 Persons not required to comply with s 166 of the Act (Act, s 168(3))

For the purposes of subsection 168(3) of the Act (which deals with the classes of person not required to give information under section 166), each class of person set out in Part 2 of Schedule 9 is prescribed.

3.06A Designated foreign dignitaries

(1) For item 10 of Part 2 of Schedule 9 (which deals with persons not required to comply with section 166 of the Act), a person is a ***designated foreign dignitary*** if:

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

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(2) The Minister must specify a person or a class in accordance with arrangements approved in writing by the Minister.

(3) If the person is specified in an instrument for paragraph (1)(a), the period in which the person is a designated foreign dignitary:
  (a) starts when the Minister specifies the person; and
  (b) ends at the time, or in the way, mentioned in the instrument.

(4) If the person is included in a class of persons specified in an instrument for paragraph (1)(b), the period in which the person is a designated foreign dignitary:
  (a) starts when the person becomes a member of the class; and
  (b) ends at the time, or in the way, mentioned in the instrument.

(5) For item 10 of Part 2 of Schedule 9, a person is a ***designated foreign dignitary*** if the person is an accompanying member of the immediate family of a person who is a designated foreign dignitary in accordance with subregulation (1).

Note: Regulation 1.12AA explains when a person is a member of the immediate family of another person.

(6) An instrument made under paragraph (1)(a) or (b) is not a legislative instrument.

Note: The effect of section 168 of the Act, regulation 3.06 and Part 2 of Schedule 9 to these Regulations is that a designated foreign dignitary is not required to comply with the requirements of section 166 of the Act relating to the giving of information.

3.07 Persons taken not to leave Australia (Act, s 80(c))

For the purposes of paragraph 80(c) of the Act, the prescribed period is 30 days.

3.08 Offence—failure to complete a passenger card

(1) A person who is required by these Regulations to complete a passenger card must not fail to do so.

Penalty: 10 penalty units.

(2) Strict liability applies to subregulation (1).

3.09 Evidence of identity—domestic travel on overseas vessels

(1) In this regulation:

authorised system means an automated system that is an authorised system for the purposes of section 170 of the Act.

boarding pass means a document that permits a person to board an aircraft, given to the person by the operator of the aircraft.

officer includes a clearance officer.

overseas vessel has the meaning given by section 165 of the Act.

Note: ***Vessel*** includes an aircraft: see s 5(1) of the Act.

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(2) For the purposes of paragraph 170(1)(a) of the Act, each of the following is prescribed as evidence of a person's identity:
  (a) an image of the person's face and shoulders;
  (b) a passport issued to the person that is in force and bears a photograph and the full name of the person;
  (c) a licence to drive a motor vehicle issued to the person under a law of the Commonwealth, or a State or Territory, that is in force and bears a photograph and the full name of the person;
  (d) a document issued to the person by:
    (i) the Commonwealth or a State or Territory; or
    (ii) a Commonwealth, State or Territory authority;
  that is in force and bears a photograph and the full name of the person;
  (e) if the person travels, or appears to intend to travel, on an overseas vessel that is an aircraft—a valid aviation security identification card (within the meaning of the *Aviation Transport Security Regulations 2005*) that:
    (i) was issued to the person by the operator of the aircraft or the operator of an airport in Australia; and
    (ii) is in force and bears a photograph and the full name of the person.

(3) For the purposes of subsection 170(2) of the Act, a person who seeks to comply with paragraph 170(1)(a) of the Act by presenting an image of the person's face and shoulders must do so by presenting themselves to an authorised system.

(4) If a person to whom this regulation applies is boarding or disembarking from an overseas vessel that is an aircraft, an officer may require the person to show the officer the person's boarding pass.

(5) An officer may require a person who is travelling with a person:
  (a) who is under 18; and
  (b) in respect of whom a document cannot be produced to the officer as required;
to write on the boarding pass issued to the first-mentioned person the full name of the second-mentioned person.

3.10 Use of information

(1) With the written consent of the Minister, use may be made of information collected under this Part in respect of persons, being information that:
  (a) is collected from passenger cards or passports, or contained in notified data bases (or both), by an officer of any Department or authority of the Commonwealth, or of a State or Territory; and
  (b) is concerned with any of the following matters, namely law enforcement, national security, national intelligence, education, health, community services, social welfare, employment, labour, taxation, statistics, quarantine, customs, excise.

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(2) The consent of the Minister for the use of information concerned with a matter specified in subregulation (1) may be given in respect of a particular occasion or any number of occasions.

(3) If:

(a) the Commonwealth has entered into an agreement with another country in relation to the provision of information concerning international movements of air traffic and persons on international flights; and

(b) the Minister is satisfied that the provision to that country of the information specified in subregulation (4) would facilitate the handling of aircraft or of persons travelling to destinations outside Australia;

the Minister may cause that information to be provided to the immigration authorities of that country.

(3A) If:

(a) the Commonwealth has entered into an agreement with an international air carrier in relation to the provision of information concerning persons on international flights; and

(b) the Minister is satisfied that the provision to that international air carrier of the information specified in subregulation (4) would facilitate the handling of persons travelling to destinations outside Australia;

the Minister may cause that information to be provided to that international air carrier.

(4) For paragraph (3)(b), in relation to a person travelling to (or to and beyond) the country mentioned in that paragraph, and for paragraph (3A)(b), in relation to a person travelling with the international air carrier mentioned in that paragraph, the following information is specified:

(a) name;

(b) date of birth;

(c) citizenship;

(ca) sex;

(cb) class and subclass of visa;

(cc) when the visa ceases to be in effect;

(d) passport number;

(e) date of departure from Australia;

(f) flight number;

(g) place of intended disembarkation;

(h) ultimate destination.

Note: Under the Act, a ***visa*** is an Australian visa issued in accordance with the Act.

(5) If the Commonwealth enters into an agreement of a kind referred to in paragraph (3)(a) or (3A)(a):

(a) the Minister must, as soon as is practicable, cause notice of the fact to be published in the *Gazette*; and

(b) information must not be made available under the agreement earlier than the day after the day on which the notice is published.

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3.10A Access to movement records

(1) For subparagraph 488(2)(a)(vii) of the Act, Commonwealth, State or Territory legislation specified by the Minister in an instrument in writing for this subregulation is prescribed.

Note: Under subsection 488(1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, subparagraph 488(2)(a)(vii) of the Act permits the Minister to authorise an officer to perform 1 or more of those actions for the purposes of prescribed Commonwealth, State or Territory legislation.

(2) For paragraph 488(2)(g) of the Act:

(a) an agency of the Commonwealth, a State or a Territory specified by the Minister in an instrument in writing for this paragraph is prescribed; and

(b) an employee of a prescribed agency who is specified by the Minister in an instrument in writing for this paragraph is prescribed; and

(c) a purpose specified by the Minister in an instrument in writing for this paragraph is prescribed.

Note: Under subsection 488(1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, paragraph 488(2)(g) of the Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform 1 or more of those actions for a prescribed purpose.

3.11 Production of deportee or removee

(1) If a person has been placed on board a vessel for the purpose of:

(a) deportation from Australia under an order made by the Minister under the Act; or

(b) removal from Australia;

an officer may require the master to produce the deportee or removee to the officer at any time before the vessel's departure from its last port of call in Australia.

(2) The master must not fail to comply with a requirement under subregulation (1).

Penalty: 10 penalty units.

(3) Subregulation (2) does not apply if the master has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (3) (see subsection 13.3(3) of the *Criminal Code*).

3.12 Offences by master of vessel

The master of a vessel must not:

(a) refuse or neglect to afford all reasonable facilities to an officer for the performance of the officer's duties; or

(b) deliver to an officer, under these Regulations, a list or statement that is incorrect in a material particular.

Penalty: 10 penalty units.

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Division 3.2—Information about passengers and crew on overseas vessels

3.13 Interpretation

In this Division:

civilian vessel means a vessel other than a vessel of the regular armed forces of a Government recognised by Australia.

international cargo ship:

(a) means a civilian vessel that:
  (i) has a gross tonnage of at least 500 tons; and
  (ii) either:
    (A) is used wholly or principally to provide sea transportation of cargo; or
    (B) is used to provide services to ships or shipping; and

(b) does not include any of the following:
  (i) an international passenger cruise ship;
  (ii) a fishing vessel;
  (iii) a fishing support vessel;
  (iv) a pleasure craft.

international passenger aircraft means an aircraft that is being used to provide a regular international passenger air service or an international passenger charter air service.

international passenger charter air service means a service of providing air transportation of persons:

(a) from:
  (i) a place outside Australia to a place in Australia; or
  (ii) a place in Australia to a place outside Australia; and

(b) that is provided:
  (i) by an airline operator that provides a regular international passenger air service; and
  (ii) in return for a fee payable by persons using the service; and

(c) that is not conducted in accordance with an international airline licence granted under Division 1 of Part 6 of the *Air Navigation Regulations 1947*.

international passenger cruise ship means a ship that:

(a) has sleeping facilities for at least 100 persons (other than crew members); and

(b) is being used to provide an international passenger sea transportation service.

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international passenger sea transportation service means a service of providing sea transportation of persons:

(a) from:
  (i) a place outside Australia to a place in Australia; or
  (ii) a place in Australia to a place outside Australia; and
(b) that is provided in return for a fee payable by persons using the service; and
(c) that is available to the general public.

master includes owner, charterer, and agent in Australia.

regular international passenger air service means a service of providing air transportation of persons:

(a) from:
  (i) a place outside Australia to a place in Australia; or
  (ii) a place in Australia to a place outside Australia; and
(b) that is provided in return for a fee payable by persons using the service; and
(c) that is conducted in accordance with:
  (i) an international airline licence granted under Division 1 of Part 6 of the *Air Navigation Regulations 1947*; and
  (ii) fixed schedules from fixed airports outside Australia over specific routes to fixed airports in Australia; and
(d) that is available to the general public on a regular basis.

Note: ***Vessel*** includes an aircraft: see the Act, s 5(1).

3.13A Information about passengers and crew to be given before arrival and departure of certain aircraft and ships

For the definition of ***kind of aircraft or ship to which this Division applies*** in subsection 245I(1) of the Act, the following kinds of aircraft or ship are a kind of aircraft or ship to which Division 12B of the Act applies:

(a) an international passenger aircraft;
(b) an international passenger cruise ship;
(c) an international cargo ship.

Note: Division 12B of the Act deals with the reporting of persons due to arrive at, or depart from, a place in Australia.

3.13B Obligation to report on persons arriving on ships—reporting periods for journey from last port outside Australia

(1) For paragraph 245L(5)(a) of the Act, the prescribed period is 96 hours.

(2) For paragraph 245L(5)(b) of the Act, the period mentioned in an item in the following table is specified for a journey of the kind mentioned in the item.

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Reporting periods for certain journeys		
Item	**Likely duration of ship's journey**	**Specified period**
1	72 hours or more but less than 96 hours	72 hours
2	48 hours or more but less than 72 hours	48 hours
3	24 hours or more but less than 48 hours	24 hours
4	Less than 24 hours	12 hours

3.13C Report on departing person to relate to flight or voyage from the last place in Australia to a place outside Australia

For paragraph 245LA(3)(b) of the Act, a report under subsection 245LA(2) of the Act must only relate to the part of a flight or voyage that is from the last place in Australia to a place outside Australia.

3.13D Obligation to report on persons departing from Australia—deadline for providing report

Deadline for reporting on persons departing on an international passenger aircraft

(1) For subsection 245LA(5) of the Act, a report under subsection 245LA(2) of the Act on a passenger or crew member who is on, or is expected to be on, a flight to be undertaken by an international passenger aircraft must be provided:

(a) before the passenger or crew member is required to present evidence of his or her identity to a clearance authority in relation to his or her departure; or

(b) if a report on the passenger or crew member has been made under subsection 245LA(2) of the Act and after the report was made the passenger or crew member changes his or her departing flight—before the passenger or crew member boards the departing flight; or

(c) for a passenger or crew member transiting through Australia without being immigration cleared and for whom a report under subsection 245LA(2) of the Act has not been made in relation to the person's departure from Australia—before the passenger or crew member boards the departing flight.

Deadline for reporting on persons departing on an international passenger cruise ship

(2) For subsection 245LA(5) of the Act, a report under subsection 245LA(2) of the Act on a passenger or crew member who is on, or is expected to be on, a voyage to be undertaken by an international passenger cruise ship must be provided before the ship departs a place in Australia for a place outside Australia.

Deadline for reporting on persons departing on an international cargo ship

(3) For subsection 245LA(5) of the Act, a report under subsection 245LA(2) of the Act on a passenger or crew member who is on, or is expected to be on, a voyage

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to be undertaken by an international cargo ship must be provided before the ship departs a place in Australia for a place outside Australia.

3.14 Information about overseas passengers to be given on arrival of inbound civilian vessel

(1) If:

(a) a civilian vessel arrives at a port in Australia (in this regulation called ***the relevant port***); and

(b) the vessel carries overseas passengers;

the master must, on the request of an officer, give the officer, to the best of the master's knowledge and belief, the particulars set out in subregulation (2), (3) or (4), as the case requires.

Penalty: 10 penalty units.

(1A) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

(2) If the last port entered by the vessel before its arrival at the relevant port was outside Australia, the particulars are:

(a) each passenger's full name; and

(b) each passenger's date of birth; and

(c) the country of issue and number of each passenger's passport; and

(d) the citizenship of each passenger; and

(e) the intended address in Australia (if any) of each passenger; and

(f) the place in Australia (if any) at which each passenger's journey in the vessel ends.

(3) If there are overseas passengers on the vessel whose journey is to end at the relevant port, the particulars in respect of each of those passengers are:

(a) his or her full name; and

(b) his or her date of birth; and

(c) the country of issue and number of his or her passport; and

(d) his or her citizenship; and

(e) his or her intended address in Australia.

(4) If:

(a) there are passengers on the vessel who:

(i) were on board the vessel when it left a place outside Australia; and

(ii) intend to travel in the vessel beyond Australia; and

(b) the master has not previously been asked by an officer to give particulars of those passengers;

the particulars of each of those passengers are:

(c) his or her full name; and

(d) his or her date of birth; and

(e) the country of issue and number of his or her passport; and

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(f) his or her citizenship.

(5) The master must, if asked to do so by an officer, give the officer a specified number (not exceeding 6) of copies of a document containing particulars given under this regulation.

Penalty: 10 penalty units.

3.15 Medical certificate

(1) If particulars are given to an officer under subregulation 3.14(2), the medical officer of the vessel must also give the officer a certificate signed by him or her that certifies that, in his or her opinion:

(a) no passenger on the vessel; or

(b) no passenger on the vessel other than a passenger named in the certificate;

is suffering from:

(c) tuberculosis; or

(d) 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; or

(e) a disease or condition that, during the person's proposed period of stay in Australia, would be likely to:

(i) result in a significant cost to the Australian community in the areas of health care or community services; or

(ii) prejudice the access of an Australian citizen or permanent resident to health care or community services.

(2) If a passenger is named in the certificate as suffering from a disease or condition referred to in paragraph (1)(c), (d) or (e), the certificate must also set out the disease or condition from which the passenger is suffering.

(3) If a vessel has no medical officer, the certificate must be signed and given by the master to the best of his or her knowledge and belief.

(4) The master must, if asked to do so by the officer, give the officer a specified number (not exceeding 6) of copies of the certificate.

Penalty: 10 penalty units.

3.16 Information about overseas passengers—outbound civilian vessel

(1) If:

(a) a civilian vessel leaves a port in Australia on an overseas voyage or an overseas flight; and

(b) the vessel carries overseas passengers:

(i) who were on board the vessel when it left a place outside Australia, and who intend to travel in the vessel beyond Australia; or

(ii) who joined the vessel at that port;

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the master of the vessel must give an officer a list setting out, to the best of the master's knowledge and belief, the following particulars of each of those passengers:

(c) his or her full name;
(d) his or her date of birth;
(e) the country of issue and number of his or her passport;
(f) his or her citizenship;
(g) the place where his or her journey in the vessel ends.

(2) The master must, if asked to do so by an officer, give the officer a specified number (not exceeding 6) of copies of a document containing particulars given under this regulation.

Penalty: 10 penalty units.

3.17 Information about crew

Members of crew

(1) The master of a civilian vessel that enters Australia must, at any port of call in Australia, if so requested by an officer:

(a) notify the officer of the number of members of the crew and give the officer the following particulars in respect of each member of the crew:
(i) his or her full name;
(ii) his or her date of birth;
(iii) his or her citizenship;
(iv) the country of issue and number of his or her passport; and
(b) if the vessel is a ship, produce to the officer the ship's articles.

(1A) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

Persons other than passengers and crew for discharge outside Australia

(2) The master of a civilian vessel that is a ship must, at the first port of call in Australia of the ship, give an officer particulars of the name and citizenship of every person on board other than:

(a) a passenger; or
(b) a member of the crew whose name appears on the ship's articles as a member of the crew for discharge at a port outside Australia.

Penalty: 10 penalty units.

(3) If the officer requests the particulars be given in a particular way, the master must give the particulars in that way.

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Division 3.3—Examination, search and detention

3.19 Periods within which evidence to be shown to officer

For subsections 188(2) and (3) of the Act, the periods are:

(a) if the requirement is oral—5 minutes; or

(b) if the requirement is in writing—48 hours.

3.20 Information to be provided—authorised officers carrying out identification tests

(1) For subsection 258B(1) of the Act, the matters are:

(a) the reason why a personal identifier is required to be provided; and

(b) how a personal identifier may be collected; and

(c) how any personal identifier that is collected may be used; and

(d) the circumstances in which a personal identifier may be disclosed to a third party; and

(e) notification that a personal identifier may be produced in evidence in a court or tribunal in relation to the person who provided the personal identifier; and

(f) notification that the *Privacy Act 1988* applies to a personal identifier, and that the person has a right to make a complaint to the Australian Information Commissioner about the handling of personal information; and

(g) notification that the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and of its agencies, and that the person has a right under that Act to seek access to that information or those documents under that Act, and to seek amendment of records containing personal information that is incomplete, incorrect, out of date or misleading; and

(h) if the person is a minor or incapable person—information concerning how a personal identifier is to be obtained from a minor or incapable person.

(2) For subsection 258B(3) of the Act, if a form is to be given to a person, it must be given to the person at a time that gives the person enough time to read and understand the form before the identification test is conducted.

3.21 Procedure and requirements—identification test not carried out

(1) For subsection 258D(2) of the Act, subregulation (2) prescribes the procedures and requirements that apply if:

(a) a person has applied for a visa; and

(b) at the time of making the application the person is outside Australia; and

(c) the person is required to provide a personal identifier under section 257A of the Act otherwise than by way of an identification test, in relation to the application.

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(2) For subregulation (1), the person must be informed of the following matters:
   (a) the reason why a personal identifier is required to be provided;
   (b) how a personal identifier may be collected;
   (c) how any personal identifier that is collected may be used;
   (d) the circumstances in which a personal identifier may be disclosed to a third party;
   (e) that a personal identifier may be produced in evidence in a court or tribunal in relation to the person;
   (f) that the *Privacy Act 1988* applies to a personal identifier, and that the person has a right to make a complaint to the Australian Information Commissioner about the handling of personal information;
   (g) that the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and its agencies, and that the person has a right under that Act to seek access to that information or those documents under that Act, and to seek amendment of records containing personal information that is incomplete, incorrect, out of date or misleading.

(3) The person may be informed of the matters in writing or orally.

(4) The manner in which the person is informed of the matters need not involve an officer or authorised officer informing the person of the matters.

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Division 3.4—Identification of immigration detainees

3.30 Immigration detainees must provide personal identifiers

(1) For subsection 261AA(1) of the Act, a circumstance is that the non-citizen is in the company of, and restrained by:
  (a) an officer; or
  (b) in the case of a particular non-citizen—another person directed by the Secretary to accompany and restrain the non-citizen.

(2) For subsection 261AA(1) of the Act, a circumstance is that each of the following applies:
  (a) immediately before being detained in immigration detention, the non-citizen was detained under:
    (i) the *Environment Protection and Biodiversity Conservation Act 1999*;
    (ii) the *Fisheries Management Act 1991*;
    (iii) the *Torres Strait Fisheries Act 1984*;
  (b) the non-citizen has provided a personal identifier or personal identifiers in accordance with the relevant Act in subparagraph (a)(i), (ii) or (iii).

(3) Subregulation (2) applies to the provision of a personal identifier only if:
  (a) an authorised officer is satisfied that the personal identifier that has been provided is usable for a particular purpose set out in subsection 5A(3) of the Act; and
  (b) the authorised officer is satisfied about the integrity of the personal identifier; and
  (c) the authorised officer is satisfied that no further personal identifiers need to be collected from the non-citizen to satisfy the purpose.

(4) For paragraph 261AA(1A)(e) of the Act, an iris scan is prescribed.

Note: Under subsection 261AA(1) of the Act, a non-citizen who is in immigration detention must (other than in the prescribed circumstances) provide to an authorised officer one or more personal identifiers. Personal identifiers are mentioned in subsection 261AA(1A) of the Act, and include any prescribed personal identifiers.

3.31 Authorised officers must require and carry out identification tests

For paragraph 261AB(1)(a) of the Act, the types of personal identifiers are as follows:
  (a) fingerprints or handprints of the non-citizen (including those taken using paper and ink or digital livescanning technologies);
  (b) a measurement of the non-citizen's height and weight;
  (c) a photograph or other image of the non-citizen's face and shoulders;
  (d) the non-citizen's signature.

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Part 4—Review of decisions

Division 4.1A—Preliminary

4.01 Interpretation

Expressions used in this Part, other than ***nominated*** and ***sponsored***, have the same respective meanings as in Part 5 of the Act.

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Division 4.1—Review of reviewable migration decisions

4.01A Application of this Division

This Division applies in relation to the review of reviewable migration decisions.

Note: The review of reviewable protection decisions is dealt with in Division 4.2.

4.02 Reviewable migration decisions and who may apply for review

(1A) For paragraph 338(2)(d) of the Act, the following visas are prescribed:

(a) a Subclass 401 (Temporary Work (Long Stay Activity)) visa;

(aa) a Subclass 402 (Training and Research) visa;

(b) a Subclass 407 (Training) visa;

(c) a Subclass 416 (Special Program) visa;

(e) a Subclass 420 (Entertainment) visa;

(k) a Subclass 457 (Temporary Work (Skilled)) visa;

(ka) a Subclass 482 (Temporary Skill Shortage) visa;

(l) a Subclass 488 (Superyacht Crew) visa;

(la) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

(m) a Subclass 870 (Sponsored Parent (Temporary)) visa.

(4) For subsection 338(9) of the Act, each of the following decisions is a reviewable migration decision:

(a) a decision under subsection 140E(1) or (1A) of the Act to refuse a person's application for approval as a work sponsor or family sponsor in relation to a class of sponsor;

(d) a decision under subsection 140GB(2) of the Act to refuse to approve a nomination;

(e) a decision under regulation 5.19 to refuse an application for approval of the nomination of a position;

(f) a decision that:

(i) relates to requiring a security; and

(ii) relates to the refusal to grant a visa, being a visa for which the Minister is to have regard to a criterion to the effect that if an authorised officer has required a security for compliance with any conditions that the officer has indicated to the applicant will be imposed on the visa if it is granted, the security has been lodged;

(h) a decision under section 140M of the Act to take one or more actions to cancel an approved sponsor's approval or to bar an approved sponsor;

(j) a decision to refuse to grant a Subclass 173 (Contributory Parent (Temporary)) visa to a contributory parent newborn child;

(k) a decision to refuse to grant a Subclass 884 (Contributory Aged Parent (Temporary)) visa to a contributory parent newborn child;

(l) a decision to refuse to grant a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 494

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(Skilled Employer Sponsored Regional (Provisional)) visa to a non-citizen who is outside Australia at the time of application if:

(i) the non-citizen is, at the time the decision to refuse to grant the visa is made, identified in an approved nomination that has not ceased under regulation 2.75 or 2.75B and the nominator was, at the time the nomination was approved, a person, body, company or partnership referred to in subregulation (4AA); or

(ii) a review of a decision under section 140E of the Act not to approve the proposed work sponsor of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the proposed work sponsor was, at the time the decision under section 140E was made, a person, body, company or partnership referred to in subregulation (4AA); or

(iii) a review of a decision under section 140GB of the Act not to approve the nomination of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the nominator was, at the time the decision under section 140GB was made, a person, body, company or partnership referred to in subregulation (4AA); or

(iv) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the grant of the visa;

(la) a decision to refuse to grant a Subclass 489 (Skilled—Regional (Provisional)) visa or a Subclass 491 (Skilled Work Regional (Provisional)) visa to a non-citizen if:

(i) the non-citizen is outside Australia at the time of application; and

(ii) the non-citizen was sponsored or nominated, as required by a criterion for the grant of the visa, by a person, body, company or partnership referred to in subregulation (4AA);

(m) a decision under subregulation 1.20AA(2) to refuse to approve a person or an organisation as a sponsor of a temporary visa applicant;

(n) a decision under subsection 140GA(2) of the Act not to vary a term specified in an approval;

(o) a decision to refuse to grant a Subclass 407 (Training) visa to a non-citizen who is outside Australia at the time of application if:

(i) the non-citizen is, at the time the decision to refuse to grant the visa is made, identified in an approved nomination that has not ceased under regulation 2.75A and the nominator was, at the time the nomination was approved, a person, body, company or partnership referred to subregulation (4AA); or

(ii) a review of a decision under section 140E of the Act not to approve the proposed sponsor of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the proposed sponsor was, at the time the decision under section 140E was made, a person, body, company or partnership referred to in subregulation (4AA); or

(iii) a review of a decision under section 140GB of the Act not to approve the nomination of the non-citizen is pending at the time the decision

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to refuse to grant the visa is made and the nominator was, at the time the decision under section 140GB was made, a person, body, company or partnership referred to in subregulation (4AA); or

(iv) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the grant of the visa; or

(v) except if it is a criterion for the grant of the visa that the non-citizen is identified in an approved nomination that has not ceased under regulation 2.75A—the non-citizen is, at the time the decision to refuse to grant the visa is made, sponsored by an approved work sponsor and that sponsor is, at that time, a Commonwealth agency;

(p) a decision to refuse to grant a Subclass 408 (Temporary Activity) visa to a non-citizen, if:

(i) the non-citizen was outside Australia at the time of application; and

(ii) the non-citizen was sponsored, as referred to in paragraph (a) of the definition of ***passes the sponsorship test*** in clause 408.111 of Schedule 2, by a person, body, company or partnership referred to in subregulation (4AA);

(q) a decision to refuse to grant a visa prescribed under subregulation (1A) to a non-citizen if:

(i) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the visa; and

(ii) the requirements of paragraphs 338(2)(a) to (c) of the Act are met in relation to the non-citizen and the visa;

(r) a decision to refuse to grant a Subclass 870 (Sponsored Parent (Temporary)) visa to a non-citizen if the non-citizen:

(i) is outside Australia at the time of application; and

(ii) is sponsored by a parent sponsor at the time the decision to refuse to grant the visa is made;

(s) a decision to refuse to grant a Subclass 300 (Prospective Marriage) visa;

(saa) a decision to refuse to grant a Subclass 309 (Partner (Provisional)) visa;

(sa) a decision made after the commencement of this paragraph to refuse to grant a Subclass 445 (Dependent Child) visa if the visa was applied for by an applicant who was outside Australia when the application was made;

(t) a decision made after 23 March 2021 to refuse to grant a Subclass 173 (Contributory Parent (Temporary)) visa to a non-citizen (other than a contributory parent newborn child) if:

(i) the application for the visa was made before 24 March 2021; and

(ii) the non-citizen was in Australia on 24 March 2021; and

(iii) the decision is made before the end of the concession period described in subregulation 1.15N(1); and

(iv) the non-citizen is in Australia when the decision is made;

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(u) a decision not to approve for the purposes of condition 8208 a visa holder undertaking critical technology related study (within the meaning of that condition).

(4AA) For the purposes of subparagraphs 4.02(4)(l), (la), (o) and (p), the nominator or sponsor must be:

(a) an Australian citizen; or
(b) a company that operates in the migration zone; or
(c) a partnership that operates in the migration zone; or
(d) the holder of a permanent visa; or
(e) a New Zealand citizen who holds a special category visa; or
(f) a Commonwealth agency; or
(g) a State or Territory government agency.

(4A) For the purposes of paragraph (4)(a), the decision is not a reviewable migration decision if:

(a) the decision relates to a person whose application for approval as an approved work sponsor in relation to the standard business sponsor class has been refused; and
(b) in making the decision, the Minister did not consider the criterion at paragraph 2.59(f).

Note: The Minister is required to consider the criterion at paragraph 2.59(f) only if the applicant is lawfully operating a business in Australia.

(4B) For the purposes of paragraphs (4)(d) and (h), the decision is not a reviewable migration decision if:

(a) the decision relates to a person who is:
(i) a standard business sponsor; or
(ii) a former standard business sponsor; and
(b) either:
(i) in making the decision under subsection 140E(1) of the Act (whether to approve the person as a standard business sponsor), the Minister did not consider the criterion at paragraph 2.59(f); or
(ii) if a term of the approval of the person as a standard business sponsor has been varied—in making the decision under subsection 140GA(2) of the Act (whether to vary the terms of approval), the Minister did not consider the criterion at paragraph 2.68(g) (as in force before 18 March 2018).

Note: The Minister is required to consider the criterion at paragraph 2.59(f) or 2.68(g) only if the applicant is lawfully operating a business in Australia.

(5) For the purposes of paragraph 347A(1)(d) of the Act, an application for review of a decision mentioned in subregulation (4) may only be made by the following:

(a) in the case of a decision mentioned in paragraph (4)(a)—a person to whose application the decision relates;
(c) in the case of a decision mentioned in paragraph (4)(d)—the person who made the nomination;

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(d) in the case of a decision mentioned in paragraph (4)(e)—the person to whose nomination of a position the decision relates;
(e) in the case of a decision to which paragraph (4)(f) applies—the non-citizen in relation to whom the decision is made;
(g) in the case of a decision mentioned in paragraph (4)(h)—the person whose approval is cancelled or who has been barred;
(h) in the case of a decision to which paragraph (4)(j) applies—the sponsor of the contributory parent newborn child;
(i) in the case of a decision to which paragraph (4)(k) applies—the applicant;
(k) in the case of a decision to which paragraph (4)(l) relates—the person who applied to become the sponsor or who nominated the non-citizen;
(ka) in the case of a decision to which paragraph (4)(la) relates—the sponsor or nominator;
(l) in the case of a decision to which paragraph (4)(m) applies—the person or organisation to whose approval the decision relates;
(m) in the case of a decision to which paragraph (4)(n) applies—the approved sponsor who applied for a variation of the term;
(n) in the case of a decision to which paragraph (4)(o) applies—the person who applied to become the sponsor or who nominated the non-citizen;
(o) in the case of a decision to which paragraph (4)(p) applies—the sponsor;
(p) in the case of a decision to which paragraph (4)(q) applies—a person to whose application the decision relates;
(q) in the case of a decision to which paragraph (4)(r) applies—the parent sponsor;
(r) in the case of a decision to which paragraph (4)(s) applies—the sponsor;
(raa) in the case of a decision to which paragraph (4)(saa) applies—the applicant;
(ra) in the case of a decision to which paragraph (4)(sa) applies—the sponsor;
(s) in the case of a decision to which paragraph (4)(t) applies—the sponsor;
(t) in the case of a decision to which paragraph (4)(u) applies—the visa holder.

4.12 Combined applications for ART review

(2) If:
(a) 2 or more applicants have combined their primary applications in Australia in a way permitted by Schedule 1 or regulation 2.08, 2.08A or 2.08B; and
(b) the Minister's decisions in respect of 2 or more of those applicants are that a visa not be granted; and
(c) the Minister's decisions are reviewable migration decisions;
the applicants referred to in paragraph (b) may combine their applications for review by the ART of the Minister's decisions.

(4) If:

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(a) a person has nominated or sponsored 2 or more members of a family unit in respect of their primary applications for visas of a kind referred to in subsection 338(5) of the Act; and
(b) the Minister's decisions in respect of 2 or more of the members of that family unit are that a visa not be granted; and
(c) the Minister's decisions are reviewable migration decisions;

the nominator or sponsor may combine his or her applications for review by the ART of the Minister's decisions in respect of each of the members of the family unit to whom the Minister refused to grant a visa.

(5) If a person applies for review by the ART of:
(a) a decision to which paragraph 4.02(4)(f) applies; and
(b) a decision to refuse to grant the visa mentioned in subparagraph 4.02(4)(f)(ii) that is a reviewable migration decision;

the applications for review by the ART of the decisions are taken to be combined.

(6) If:
(a) 2 or more visa applicants have combined their primary applications, in a way permitted by Schedule 1 or regulation 2.08, 2.08A or 2.08B, for visas of a kind referred to in subsection 338(6) or (7) of the Act; and
(b) the Minister's decisions in respect of 2 or more of those visa applicants are that visas not be granted; and
(c) the Minister's decisions are reviewable migration decisions;

the Australian citizen or Australian permanent resident who is a parent, spouse, de facto partner, child, brother or sister of the visa applicants may combine his or her applications for review by the ART of the Minister's decisions in respect of each of those visa applicants to whom the Minister refused to grant a visa.

4.12A Prescribed information and documents for review applications

(1) This regulation is made for the purposes of subsection 347(2) of the Act.

(2) If the person (the ***review applicant***) making an application for review of a reviewable migration decision has a copy of the notification of the decision, the prescribed document is a copy of that notification.

(3) If the review applicant does not have a copy of that notification and the review applicant is an individual, the prescribed information is:
(a) the review applicant's full name; and
(b) the review applicant's address and contact details; and
(c) the date of the decision (if known to the review applicant) and a description of the decision; and
(d) at least one of the following:
(i) the review applicant's date of birth;
(ii) the review applicant's country of birth;

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(iii) the review applicant's citizenship or nationality;
(iv) the country of issue and number of the review applicant's passport; and

(e) if the decision relates to an application for a visa made by a person (the ***visa applicant***) who is not the review applicant—the information specified in subregulation (5).

(4) If the review applicant does not have a copy of that notification and the review applicant is not an individual, the prescribed information is:
(a) the review applicant's name; and
(b) the review applicant's trading name (if any and if different from the review applicant's name); and
(c) if the review applicant has an ABN (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*) or ACN (within the meaning of the *Corporations Act 2001*)—the ABN or ACN; and
(d) the review applicant's business address; and
(e) the name, position and contact details of a contact person for the review applicant; and
(f) the date of the decision (if known to the review applicant) and a description of the decision; and
(g) if the decision relates to an application for a visa made by a person (the ***visa applicant***) who is not the review applicant—the information specified in subregulation (5).

(5) For the purposes of paragraphs (3)(e) and (4)(g), the following information is specified:
(a) the visa applicant's full name;
(b) the visa applicant's address and contact details;
(c) at least one of the following:
(i) the visa applicant's date of birth;
(ii) the visa applicant's country of birth;
(iii) the visa applicant's citizenship or nationality;
(iv) the country of issue and number of the visa applicant's passport.

4.13 ART review—fees and waiver

(1) Subject to this regulation, the prescribed fee for an application for review by the ART of a reviewable migration decision is $3,496.

Note: The fee in this subregulation is subject to increase under regulation 4.13A.

(2) No fee is payable on the following:
(a) an application for review by the ART of a primary decision of a kind referred to in subsection 338(4) of the Act;
(b) an application, made by a non-citizen who is in immigration detention, for review by the ART of a decision to which paragraph 4.02(4)(f) applies.

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(2A) No fee is payable on an application made by a person (the ***review applicant***) for review of a decision (the ***decision for review***) made by the Minister if:

(a) the decision for review is a refusal to grant the review applicant a visa because the review applicant did not satisfy at least one of the secondary criteria for the grant of the visa; and

(b) that criterion was not satisfied because the Minister had refused to grant a visa to a person (the ***primary applicant***) who:

(i) is a former spouse or former de facto partner of the review applicant; and

(ii) was seeking to satisfy the primary criteria for the grant of that visa; and

(c) in making the decision for review, the Minister was satisfied that the review applicant satisfied a criterion that the review applicant, or another person mentioned in the criterion, has experienced family violence committed by the primary applicant.

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

(3) If a person combines 2 or more applications for review by the ART in accordance with regulation 4.12, an application fee is payable in respect of only 1 of those applications.

(4) If the ART Principal Registrar, having regard to the review applicant's income, expenses, liabilities and assets, considers that the payment of the fee mentioned in subregulation (1) would cause, or has caused, financial hardship to the review applicant, the prescribed fee is 50% of the amount mentioned in subregulation (1).

4.13A Annual increases in fees

The fee prescribed by subregulation 4.13(1) is increased, in accordance with regulation 4.13B, on each 1 July starting on 1 July 2025.

4.13B Calculation of increase

(1) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, a fee is taken to increase, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

earlier CPI number is the CPI number for the last March quarter before the beginning of the relevant period.

latest CPI number is the CPI number for the last March quarter before the end of the relevant period.

(2) If, apart from this subregulation, the amount of a fee increased under subregulation (1) would be an amount of dollars and cents, the amount is to be

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rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, rounded down.

(3) Subject to subregulation (4), if at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this regulation.

(4) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this regulation after the change is made, regard must be had only to numbers published in terms of the new reference base.

(5) In this regulation:

CPI number means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

fee means:

(a) a fee prescribed by subregulation 4.13(1); or

(b) the fee in force at the end of the relevant period if regulation 4.13A applies.

relevant period means a financial year starting on or after 1 July 2024.

4.14 Refund of fees by ART

(1) The table sets out:

(a) circumstances in which all or part of the amount of the fee for an application for review of a decision is to be refunded; and

(b) the amount that is to be refunded.

Item	If ...	the amount to be refunded is ...
Refunds for financial hardship		
1	the applicant has paid the amount mentioned in subregulation 4.13(1) and subregulation 4.13(4) applies	50% of the amount the applicant was required to pay by regulation 4.13
General refunds		
2	the applicant is not entitled to apply for review by the ART	the amount that the applicant was required to pay by regulation 4.13
3	the decision to which the application relates is not subject to review by the ART	the amount that the applicant was required to pay by regulation 4.13

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Regulation 4.15

Item	If ...	the amount to be refunded is ...
4	the Minister has given a conclusive certificate as mentioned in section 339 of the Act (which deals with conclusive certificates) in relation to the decision Note: The conclusive certificate certifies that review would be contrary to the public interest.	the amount that the applicant was required to pay by regulation 4.13
Refunds after ART decision		
5	the decision to which the review relates is set aside or varied	50% of the amount the applicant was required to pay by regulation 4.13
6	the application is remitted to the primary decision-maker for reconsideration	50% of the amount the applicant was required to pay by regulation 4.13

(2) If an application for review by the ART is withdrawn, the fee paid on the application is to be refunded if the application is withdrawn because:
  (a) the death has occurred, since the visa application was made, of:
    (i) the applicant for the visa that was the subject of the application; or
    (ii) a member of that applicant's family unit; or
    (iii) a review applicant; or
  (b) the applicant for the visa that was the subject of the application has been granted a visa of the class applied for otherwise than because the Minister has reconsidered the primary application and the applicant's score on the reconsideration is more than or equal to the applicable pass mark; or
  (c) in relation to an application for a parent visa—the applicant:
    (i) applied for another parent visa after lodging the application for review; and
    (ii) wants to have a decision made on the application for the other parent visa.

4.15 ART's power to remit matters with orders

(1) For the purposes of subsection 349(2) of the Act (which deals with the ART's power to remit):
  (a) an application for a visa is a prescribed matter; and
  (b) subject to subregulation (4), a permissible order is that the applicant must be taken to have satisfied a specified criterion for the visa.

(1A) For the purposes of subsection 349(2) of the Act:
  (a) the following are prescribed matters:
    (i) a nomination under subsection 140GB(1) of the Act;
    (ii) a nomination referred to in subregulation 5.19(1); and
  (b) a permissible order is that the nomination must be taken to have met a specified criterion or requirement for approval under subsection 140GB(2) of the Act or subregulation 5.19(3) (as the case may be).

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(2) For the purposes of subsection 349(2) of the Act, the requiring of a security that is mentioned in paragraph 4.02(4)(f) is a prescribed matter.

(3) If the ART remits a prescribed matter that is mentioned in subregulation (2) to the primary decision-maker, the ART may order the primary decision-maker:
  (a) to indicate to the applicant that a condition specified by the ART will be imposed on the visa if it is granted; and
  (b) to require a security for compliance with the condition (whether or not a security has already been required).

(4) If:
  (a) a person applies for a Prospective Marriage (Temporary) (Class TO) visa; and
  (b) in the period after the Minister's decision on the application is made and before the application is finally determined, the applicant:
    (i) marries the person who was specified in the application as the applicant's prospective spouse; and
    (ii) notifies the ART of the marriage; and
  (c) the marriage is recognised as valid for the purposes of the Act; and
  (d) the ART decides to remit the application to the Minister for reconsideration;

then, for the purposes of paragraph 349(2)(b) of the Act, the permissible order is that the application must be taken to also be an application:
  (e) for a Partner (Migrant) (Class BC) visa and for a Partner (Provisional) (Class UF) visa; and
  (f) that is made on the day that the application is remitted to the Minister.

4.16 Statement about decision under review

The number of copies that the Secretary must give to the ART under subsection 352(2) of the Act (which deals with the statement that the Secretary must give to the ART) is 1.

4.27 Prescribed period for making certain decisions (Act, s 367)

For subsection 367(1) of the Act, the prescribed period starts when the application for review is received by the ART and ends at the end of 7 working days after the day on which the application is received.

Note: Subsection 367(1) of the Act provides for the regulations to limit the time in which the ART must review certain decisions on bridging visas.

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Division 4.2—Review of reviewable protection decisions

4.28 Application of this Division

This Division applies in relation to the review of reviewable protection decisions.

Note: The review of reviewable migration decisions is dealt with in Division 4.1.

4.31 Prescribed information and documents for review applications

(1) This regulation is made for the purposes of subsection 347(2) of the Act.

(2) If the person making an application for review of a reviewable protection decision has a copy of the notification of the decision, the prescribed document is a copy of that notification.

(3) If the person does not have a copy of that notification, the prescribed information is:

(a) the person's full name; and
(b) the person's address and contact details; and
(c) the date of the decision (if known to the person) and a description of the decision; and
(d) at least one of the following:
(i) the person's date of birth;
(ii) the person's country of birth;
(iii) the person's citizenship or nationality or a statement that the person is stateless;
(iv) the country of issue and number of the person's passport.

4.31A Combined applications for review by the ART

If:

(a) 2 or more applicants have combined their primary applications for a protection visa in a way permitted by Schedule 1 or regulation 2.08, 2.08A, 2.08AAA or 2.08B; and
(b) the Minister's decisions in respect of 2 or more of those applicants are that protection visas not be granted; and
(c) the Minister's decisions are reviewable protection decisions;

the applicants referred to in paragraph (b) may combine their applications for review by the ART of the Minister's decisions.

4.31B Review by the ART—fee and waiver

(1) The prescribed fee for an application for review by the ART of a reviewable protection decision is $2,151.

Note: The fee in this subregulation is subject to increase under regulation 4.31BA.

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(2) The fee must be paid within the 7-day period beginning on the day when:
  (a) if the ART's decision is given to the applicant orally—the applicant is taken, under subsection 368(7) of the Act, to have been notified of that decision; or
  (b) otherwise—the applicant is taken, under section 379C of the Act, to have received the notification of that decision.

(3) No fee is payable if the ART remits a matter to which the decision relates with a permissible order under regulation 4.33.

(3AA) No fee is payable for review of a reviewable protection decision if:
  (a) the decision was referred to the ART under subitem 35(2) or 37(2) of Schedule 16 to the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024*; or
  (b) the proceeding for review of the decision was continued and finalised by the ART in accordance with subitem 36(2) of that Schedule.

(3A) No further fee is payable under this regulation if:
  (a) a fee has been paid under this regulation; and
  (b) following the ART's determination, the matter in relation to which the fee was paid is remitted by a court for reconsideration by the ART.

(4) If 2 or more applications for review are combined in accordance with regulation 4.31A, only 1 fee is payable for reviews that result from those applications.

4.31BA Annual increases in fees

The fee prescribed by subregulation 4.31B(1) is increased in accordance with regulation 4.31BB, on each 1 July starting on 1 July 2025.

4.31BB Calculation of increase

(1) If, in a relevant period, the latest CPI number is greater than the earlier CPI number, a fee is taken to increase, on 1 July immediately following the end of the period, in accordance with the formula:

$$\frac{\text{Fee} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

earlier CPI number is the CPI number for the last March quarter before the beginning of the relevant period; and

latest CPI number is the CPI number for the last March quarter before the end of the relevant period.

(2) If, apart from this subregulation, the amount of a fee increased under subregulation (1) would be an amount of dollars and cents, the amount is to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, rounded down.

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(3) Subject to subregulation (4), if at any time, whether before or after the commencement of this regulation, the Australian Statistician publishes for a particular March quarter a CPI number in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this regulation.

(4) If, at any time, whether before or after the commencement of this regulation, the Australian Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this regulation after the change is made, regard must be had only to numbers published in terms of the new reference base.

(5) In this regulation:

CPI number means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

fee means:
(a) a fee prescribed by subregulation 4.31B(1); or
(b) the fee in force at the end of the relevant period if regulation 4.31BA applies.

relevant period means a financial year starting on or after 1 July 2024.

4.31C Refund (or waiver) of fee for review by the ART

(1) This regulation applies to a review of a decision if:
(a) both:
(i) on review by a court, the decision is remitted for reconsideration by the ART; and
(ii) the ART remits a matter to which the decision relates with a permissible order under regulation 4.33; or
(b) the Minister, under section 351 or repealed section 417 of the Act, has substituted for the decision of the Administrative Appeals Tribunal or the ART a decision that is favourable to the applicant.

(2) A fee paid under regulation 4.31B, or liable to be paid under regulation 4.31B, in relation to a decision to which this regulation applies is to be refunded, or waived, as the case requires.

4.33 Powers of ART

(1) For the purposes of subsection 349(2) of the Act, an application for a protection visa is prescribed.

(2) For the purposes of paragraph 349(2)(b) of the Act, it is a permissible order that the applicant must be taken to have satisfied the criteria for the visa that are specified in the order.

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(3) For the purposes of paragraph 349(2)(b) of the Act:

(a) it is a permissible order that the applicant is a refugee within the meaning of subsection 5H(1) of the Act; and

(aa) it is a permissible order that subsection 36(3) of the Act does not apply to the applicant; and

(b) it is not a permissible order that:

(i) subsection 5H(1) of the Act applies to the applicant; or

(ii) subsection 5H(1) does not apply to the applicant because of subsection 5H(2); or

(iii) the applicant satisfies, or does not satisfy, the criterion in subsection 36(1C) of the Act.

(4) For the purposes of paragraph 349(2)(b) of the Act:

(a) it is a permissible order that the applicant satisfies each matter, specified in the order, that relates to establishing whether the applicant is a person to whom Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that the applicant will suffer significant harm; and

(b) it is not a permissible order that the applicant satisfies a matter that relates to establishing whether there are serious reasons for considering that:

(i) the applicant has committed a crime against peace, a war crime or a crime against humanity, as defined by an international instrument mentioned in regulation 2.03B; or

(ii) the applicant committed a serious non-political crime before entering Australia; or

(iii) the applicant has been guilty of acts contrary to the purposes and principles of the United Nations; and

(c) it is not a permissible order that the applicant satisfies a matter that relates to establishing whether there are reasonable grounds that:

(i) the applicant is a danger to Australia's security; or

(ii) the applicant, having been convicted by a final judgment of a particularly serious crime, including a crime that consists of the commission of a serious Australian offence or serious foreign offence, is a danger to the Australian community.

(5) For the purposes of paragraph 349(2)(b) of the Act, it is a permissible order that the grant of the visa is not prevented by section 91W, 91WA or 91WB of the Act.

4.34 Statement about decision under review—number of copies

For the purposes of subsection 352(2) of the Act, the prescribed number of copies of a statement of the kind mentioned in that subsection is 1.

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Division 4.3—Service of documents

4.39 Address for service

(1) In this regulation:

lodge an address for service, in relation to an applicant for review, means give the ART notice in writing of an address at which documents relating to a review may be sent to the applicant.

(2) An applicant for review of a reviewable migration decision or a reviewable protection decision may:
  (a) lodge an address for service in a review; and
  (b) at any time after lodging an address for service, lodge a new address for service in that review.

(3) If an applicant for review lodges with the ART a new address for service under paragraph (2)(b):
  (a) that new address becomes the applicant for review's address for service in the review; and
  (b) he or she must, immediately after doing so, serve on the Minister a notice of that new address for service.

(4) An address for service may be, but need not be, the applicant's residential address.

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Part 5—Miscellaneous

Division 5.1—Service of documents

5.01 Definition for Division 5.1

In this Division:

document includes:

(a) a letter; and

(b) an invitation, notice, notification, statement or summons, if it is in writing.

5.02 Service of document on person in immigration detention

For the purposes of the Act and these Regulations, a document to be served on a person in immigration detention may be served by giving it to the person himself or herself, or to another person authorised by him or her to receive documents on his or her behalf.

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Division 5.2—Procedure of commissioners and prescribed authorities

Note: If a person is proposed to be deported because he or she was convicted of certain serious offences (set out in section 203 of the Act), he or she may ask the Minister to appoint a Commissioner to inquire into whether the grounds for the deportation have been made out.

Section 253 of the Act provides that if a person arrested as a deportee asserts that he or she is not the person named in the deportation order, and makes a statutory declaration saying so, the person must be taken before a prescribed authority, who must inquire into whether there are reasonable grounds for supposing the person to be a deportee. The persons who may be prescribed authorities are set out in section 255 and include a judge or former judge, a legal practitioner of at least 5 years' standing, and a magistrate.

5.04 Power of Commissioner to send for witnesses and documents

A Commissioner appointed under subsection 203(4) of the Act (which deals with the appointment of commissioners) may, by writing signed by the Commissioner, summon any person:

(a) to attend before the Commissioner at a time and place specified in the summons; and

(b) to give evidence; and

(c) to produce any books or documents in the person's custody or control which the person is required by the summons to produce.

5.05 Duty of witness to continue in attendance

(1) A person who has been summoned to attend before a Commissioner as a witness must appear and report from day to day, unless excused by the Commissioner.

Penalty: 10 penalty units.

(2) Strict liability applies to subregulation (1).

5.06 Arrest of witness failing to appear

(1) If a person who has been summoned to attend before a Commissioner fails:

(a) to attend before the Commissioner as required by the summons; or

(b) to appear and report in accordance with regulation 5.05;

the Commissioner may, on being satisfied that the summons has been duly served and that reasonable expenses have been paid or tendered to the person, issue a warrant for the person's arrest.

(2) A warrant authorises:

(a) the arrest and bringing before the Commissioner of the person; and

(b) the detention of the person in custody for the purposes specified in the warrant until the person is released by order of the Commissioner.

(3) A warrant may be executed by a member of the police force of the Commonwealth or of a State or Territory or by any person to whom it is

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addressed, and the person executing it has power to break and enter any place, building or vessel, using any force that is necessary and reasonable, for the purpose of executing the warrant.

(4) The arrest of a person under this regulation does not relieve that person from any liability incurred by the person because of the failure of that person to attend before the Commissioner.

5.07 Witnesses' fees

(1) A person who attends to give evidence before a Commissioner is, in respect of that attendance, to be paid such fees and travelling expenses as the Commissioner allows in accordance with the scale in Part 4 of the *Public Works Committee Regulation 2016*.

(2) The fees and travelling expenses are payable:
  (a) in the case of a witness summoned at the request of the person to whom the investigation relates—by that person; and
  (b) in any other case—by the Commonwealth.

5.08 Power to examine on oath or affirmation

(1) A Commissioner may administer an oath to a person appearing as a witness before the Commissioner, whether the witness has been summoned or appears without being summoned, and may examine the witness on oath.

(2) If a witness conscientiously objects to swear an oath, the witness may make an affirmation that the witness conscientiously objects to swear an oath and that the witness will state the truth, the whole truth, and nothing but the truth to all questions the witness is asked.

(3) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

5.09 Offences by witnesses

(1) A person summoned to attend before a Commissioner as a witness must not:
  (a) fail to attend, after payment or tender to the person of a reasonable sum for expenses of attendance; or
  (b) refuse to be sworn or to make an affirmation as a witness; or
  (c) refuse to answer any question when required to do so by the Commissioner; or
  (d) refuse or fail to produce a book or document which the person was required by the summons to produce.

  Penalty: 10 penalty units.

(2) Paragraphs (1)(a) and (d) do not apply if the person has a reasonable excuse.

  Note: A defendant bears an evidential burden in relation to the matter in subregulation (2) (see subsection 13.3(3) of the *Criminal Code*).

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(3) Strict liability applies to paragraph (1)(a).

5.10 Statements of person not admissible in evidence against the person

A statement or disclosure made by a person in answer to a question put to the person during an investigation by a Commissioner is not admissible in evidence against the person in any civil or criminal proceedings other than:

(a) proceedings in respect of a false answer; or

(b) proceedings relating to the deportation of the person.

5.11 Representation by counsel etc

(1) In an investigation before a Commissioner, the person summoned to appear and the Minister are each entitled to be represented by a barrister or solicitor or by an agent approved by the Commissioner.

(2) A barrister, solicitor or agent appearing before a Commissioner may examine or cross-examine witnesses and address the Commissioner.

5.12 Offences in relation to Commissioners

A person must not:

(a) intentionally insult or disturb a Commissioner when exercising powers and functions under the Act; or

(b) interrupt the proceedings of a Commissioner; or

(c) use insulting language towards a Commissioner; or

(d) by writing or speech use words calculated to influence dishonestly a Commissioner or a witness before a Commissioner.

Penalty: 10 penalty units.

5.13 Protection of Commissioners, barristers and witnesses

(1) A Commissioner has, in the performance of the duties of a Commissioner, the same protection and immunity as a Justice of the High Court.

(2) A barrister, solicitor or approved agent appearing before a Commissioner has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3) A witness summoned to attend, or appearing, before a Commissioner has the same protection as a witness in proceedings in the High Court.

5.14 Procedure of prescribed authorities

This Part applies to:

(a) prescribed authorities referred to in section 255 of the Act; and

(b) proceedings before those prescribed authorities under section 253 of the Act;

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in the same manner as it applies to Commissioners and proceedings before Commissioners and as if references in those provisions to a Commissioner were references to a prescribed authority.

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Division 5.3—General

5.15 Behaviour concern non-citizen

For the purposes of paragraph (e) of the definition of ***behaviour concern non-citizen*** in subsection 5(1) of the Act, each of the following circumstances is prescribed in relation to the exclusion of a person from a country other than Australia:

(a) that the person refused or failed to present a passport on request by the competent authorities in that country in circumstances in which it would be unreasonable to refuse or fail to do so;

(b) that the person presented to those authorities a passport that was a bogus document;

(c) that the person was reasonably refused entry to that country on the ground that the person was not a genuine visitor;

(d) that the authorities of that country considered the person to be a threat to the national security of the country.

5.15A Special category visas—declared classes of New Zealand citizens

(1) For paragraph 32(2)(c) of the Act, a person is in a class of persons for whom a visa of a class other than a special category visa would be inappropriate if the person:

(a) is a New Zealand citizen who holds, and has presented to an officer, a New Zealand passport that is in force; and

(b) is not a health concern non-citizen; and

(c) is covered by subregulation (2) or (3).

(2) A person is covered by this subregulation if the person is a behaviour concern non-citizen only because of having been excluded from a country other than Australia in circumstances that, in the opinion of the Minister, do not warrant the exclusion of the person from Australia.

(3) A person is covered by this subregulation if:

(a) the Minister has, under subsection 501(3A) of the Act (person serving sentence of imprisonment), cancelled a visa held by the person; and

(b) the person has made representations to the Minister in accordance with the invitation given by the Minister under subsection 501CA(3) of the Act; and

(c) the decision to cancel the visa is revoked under subsection 501CA(4) of the Act; and

(d) the Minister has not, under subsection 501BA(2) of the Act, set aside the decision to revoke the cancellation of the visa; and

(e) since the person made the representations to the Minister mentioned in paragraph (b), no new grounds have arisen for the person to fall within the definition of ***behaviour concern non-citizen*** in subsection 5(1) of the Act, unless the only new ground that has arisen is the person's removal or deportation from Australia because of the decision to cancel the visa.

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(4) For the purposes of paragraph 32(2)(c) of the Act, a declared class of persons for whom a visa of another class would be inappropriate is New Zealand citizens:
  (a) who hold a New Zealand passport that:
    (i) is in force; and
    (ii) is of a kind determined under section 175A of the Act to be an eligible passport for the purposes of Division 5 of Part 2 of the Act; and
  (b) who have presented an image of their face and shoulders by presenting themselves to an authorised system and who, as a result, have been satisfactorily identified; and
  (c) who are neither behaviour concern non-citizens nor health concern non-citizens.

(5) In this regulation:

authorised system means an automated system that is an authorised system for the purposes of section 32 of the Act.

5.15C Excised offshore places

(1) For paragraph (d) of the definition of ***excised offshore place*** in subsection 5(1) of the Act, the Coral Sea Islands Territory is prescribed.

(2) For paragraph (e) of the definition of ***excised offshore place*** in subsection 5(1) of the Act, the following islands are prescribed:
  (a) all islands that:
    (i) form part of Queensland; and
    (ii) are north of latitude 21° south;
  (b) all islands that:
    (i) form part of Western Australia; and
    (ii) are north of latitude 23° south;
  (c) all islands that:
    (i) form part of the Northern Territory; and
    (ii) are north of latitude 16° south.

5.16 Prescribed diseases—health concern non-citizen (Act, s 5(1))

For the purposes of the definition of ***health concern non-citizen*** in subsection 5(1) of the Act, tuberculosis (being tuberculosis that is not being controlled with medication, and in respect of which the person suffering from it refuses to sign an undertaking to visit a Commonwealth Medical Officer within 7 days of entering Australia) is a prescribed disease.

5.17 Prescribed evidence of English language proficiency (Act, s 5(2)(b))

For the purposes of paragraph 5(2)(b) of the Act (dealing with whether a person has functional English), the evidence referred to in each of the following paragraphs is prescribed evidence of the English language proficiency of a person:

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(a) evidence specified by the Minister in an instrument in writing for this paragraph;

(c) evidence that:

(i) the person holds an award (being a degree, a higher degree, a diploma or a trade certificate) that required at least 2 years of full-time study or training; and

(ii) all instruction (including instruction received in other courses for which the person was allowed credit) for that award was conducted in English;

(d) if evidence referred to in paragraph (a) cannot be provided by the person—evidence that the person has been determined by the Minister, on the basis of an interview with the person, to have functional English.

5.18 Prescribed laws relating to control of fishing

For the purposes of paragraph 262(1)(b) of the Act (specifying laws that, if broken by a non-citizen in certain circumstances, will render the non-citizen liable to repay costs to the Commonwealth), the following laws are prescribed:

(a) the following laws of the Commonwealth:

(i) the *Continental Shelf (Living Natural Resources) Act 1968*;

(ii) the *Fisheries Act 1952*;

(iii) the *Fisheries Management Act 1991*;

(iv) the *Torres Strait Fisheries Act 1984*;

(b) the following laws of Queensland:

(i) the *Fisheries Act 1976*;

(ii) the *Fishing Industry Organisation and Marketing Act 1982*;

(c) the *Fisheries Act 1905* of Western Australia.

5.19 Approval of nominated positions—Subclass 186 (Employer Nomination Scheme) visa and Subclass 187 (Regional Sponsored Migration Scheme) visa

Application

(1) A person (the ***nominator***) (including a partnership or unincorporated association) may apply to the Minister for approval of the nomination of a position in Australia.

(2) The application must:

(aa) if the application identifies a Subclass 187 (Regional Sponsored Migration Scheme) visa—be made before 16 November 2019 (subject to subclause (2A)); and

(a) be made in accordance with approved form 1395 (Internet); and

(b) identify the position; and

(c) identify a person (the ***identified person***) in relation to the position; and

(d) identify an occupation in relation to the position; and

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(e) identify the subclass and stream to which the nomination relates, which must be one of the following:
  (i) a Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream;
  (ii) a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream;
  (iii) a Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry stream;
  (iv) Subclass 187 (Regional Sponsored Migration Scheme) visa in the Direct Entry stream;
  (v) a Subclass 186 (Employer Nomination Scheme) visa in the Labour Agreement stream; and

(f) be accompanied by the fee mentioned in regulation 5.37; and

(fa) be accompanied by any nomination training contribution charge the nominator is liable to pay in relation to the nomination; and

(fb) identify the annual turnover (within the meaning of the *Migration (Skilling Australians Fund) Charges Regulations 2018*) for the nomination; and

(g) include a written certification by the nominator stating whether or not the nominator has engaged in conduct, in relation to the nomination, that constitutes a contravention of subsection 245AR(1) of the Act.

(2A) Paragraph (2)(aa) does not apply if:
(a) the application identifies a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream; and
(b) the identified person is a transitional 457 worker or transitional 482 worker at the time the application is made.

Approval of nomination

(3) The Minister must, in writing:
(a) approve the nomination if the Minister is satisfied that the requirements set out in subregulation (4) are met; or
(b) otherwise—refuse to approve the nomination.

Requirements for approval—general

(4) The requirements to be met for the nomination to be approved are as follows:
(a) the application is made in accordance with subregulation (2);
(b) either:
  (i) there is no adverse information known to Immigration about the nominator or a person associated with the nominator; or
  (ii) it is reasonable to disregard any adverse information known to Immigration about the nominator or a person associated with the nominator;
(c) if it is mandatory, in the State or Territory in which the position is located, for a person to:
  (i) hold a licence of a particular kind; or

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(ii) hold registration of a particular kind; or

(iii) be a member (or a member of a particular kind) of a particular professional body;

to perform tasks of the kind to be performed in the occupation, the identified person is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body, at the time of application;

(d) the nominator has a satisfactory record of compliance with the laws of the Commonwealth, and of each State or Territory in which the nominator operates a business and employs employees in the business, relating to employment;

(da) any debt due by the nominator as mentioned in section 140ZO of the Act (recovery of nomination training contribution charge and late payment penalty) has been paid in full;

(e) if the nomination relates to a visa in a Temporary Residence Transition stream—the requirements set out in subregulation (5) are met;

(f) if the nomination relates to a visa in a Direct Entry stream—the requirements set out in subregulation (9) are met;

(g) if the nomination relates to a visa in a Labour Agreement stream—the requirements set out in subregulation (14) are met.

Temporary Residence Transition stream—additional requirements for approval

(5) If the nomination relates to a visa in a Temporary Residence Transition stream, the following requirements must also be met:

(a) at the time the application is made, the identified person holds:

(i) a Subclass 457 (Temporary Work (Skilled)) visa; or

(ii) a Subclass 482 (Temporary Skill Shortage) visa; or

(iii) if the last substantive visa held by the identified person was a visa mentioned in subparagraph (i) or (ii)—a bridging visa granted on the basis that the person is an applicant for a visa mentioned in subparagraph (i) or (ii), a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa;

(b) the occupation:

(i) is listed in ANZSCO; and

(ii) has the same 4-digit ANZSCO occupation unit group code as the occupation in relation to which the identified person's most recently held Subclass 457 (Temporary Work (Skilled)) visa or Subclass 482 (Temporary Skill Shortage) visa was granted;

(d) either:

(i) there is no information known to Immigration that indicates that the identified person is not genuinely performing the tasks of the occupation as specified in ANZSCO; or

(ii) it is reasonable to disregard any such information;

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(e) during the period of 3 years immediately before the application is made, the identified person held one or more of the following for a total period of at least 2 years:
  (i) a Subclass 457 (Temporary Work (Skilled)) visa;
  (ii) a Subclass 482 (Temporary Skill Shortage) visa;

(f) unless paragraph (g) applies—during the period of 3 years immediately before the application is made, the identified person was employed in the position in relation to which the visa, or visas, mentioned in paragraph (e) were granted:
  (i) for a total period of at least 2 years (not including any periods of unpaid leave); and
  (ii) on a full-time basis, with the employment being undertaken in Australia;

(g) if the visa, or visas, mentioned in paragraph (e) were granted in relation to an occupation specified in an instrument made under subregulation 2.72(13)—during the period of 3 years immediately before the application is made, the identified person was employed in the occupation for a total period of at least 2 years (not including any periods of unpaid leave);

(h) the nominator:
  (i) was the standard business sponsor, or the party to a work agreement, who last identified the identified person in a nomination approved under section 140GB of the Act; and
  (ii) is actively and lawfully operating a business in Australia;

(j) the application identifies a need for the identified person to be employed in the position, under the direct control of the nominator;

(k) there is a genuine need for the identified person to be employed in the position, under the direct control of the nominator;

(l) the identified person will be employed on a full-time basis in the position for at least 2 years;

(m) the terms and conditions of the identified person's employment will not include an express exclusion of the possibility of extending the period of employment;

(n) the nominator's business has the capacity to employ the identified person for at least 2 years and to pay the person at least the annual market salary rate for the occupation each year;

(o) the requirements set out in subregulation 2.72(15) are met, applying subregulations 2.72(15) and (16) as if:
  (i) paragraph 2.72(15)(a) did not apply; and
  (ii) references to the nominee were references to the identified person; and
  (iii) references to the person were references to the nominator;

(p) either:
  (i) there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply to the identified person are less favourable than those that

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apply, or would apply, to an Australian citizen or an Australian permanent resident performing equivalent work at the same location; or

(ii) it is reasonable to disregard any such information;

(q) the nominator has provided the information required by the Minister for the purposes of paragraph (k) to (n).

Minister may vary certain Temporary Residence Transition stream requirements

(6) The Minister may, by legislative instrument, determine different periods of time for the purposes of paragraphs (5)(e), (f) and (g) for persons specified in the instrument.

(7) Paragraphs (5)(j), (k) and (l) do not apply in relation to occupations specified in an instrument made under subregulation 2.72(13).

Direct Entry stream—additional requirements for approval

(9) If the nomination relates to a visa in a Direct Entry stream, the following requirements must also be met:

(a) the nominator is actively and lawfully operating a business in Australia;

(b) if the nominator's business activities include activities related to the hiring of labour to other unrelated businesses—the position is within the business activities of the nominator and not for hire to other unrelated businesses;

(c) the application identifies a need for the identified person to be employed in the position, under the direct control of the nominator;

(d) there is a genuine need for the identified person to be employed in the position, under the direct control of the nominator;

(e) the identified person will be employed on a full-time basis in the position for at least 2 years;

(f) the terms and conditions of the identified person's employment will not include an express exclusion of the possibility of extending the period of employment;

(g) the nominator's business has the capacity to employ the identified person for at least 2 years and to pay the person at least the annual market salary rate for the occupation each year;

(h) the requirements set out in subregulation 2.72(15) are met, applying subregulations 2.72(15) and (16) as if:

(i) paragraph 2.72(15)(a) did not apply; and

(ii) references to the nominee were references to the identified person; and

(iii) references to the person were references to the nominator;

(i) either:

(i) there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply to the identified person are less favourable than those that apply, or would apply, to an Australian citizen or an Australian

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permanent resident performing equivalent work at the same location; or

(ii) it is reasonable to disregard any such information;

(j) the requirements set out in subregulation (10) or (12) are met.

Occupations for the Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry stream

(10) The requirements of this subregulation are as follows:

(a) the tasks to be performed in the position will be performed in Australia and correspond to the tasks of an occupation specified in a legislative instrument:

(i) made under subregulation (11); and

(ii) in force at the time the application is made;

(b) the occupation applies to the identified person in accordance with that instrument.

(11) The Minister may, by legislative instrument, specify occupations for the purposes of subregulation (10) and, for each occupation, specify any matters for the purposes of determining whether the occupation applies to an identified person, including matters relating to any of the following:

(a) the nominator;

(b) the identified person;

(c) the occupation;

(d) the position in which the identified person is to work;

(e) the circumstances in which the occupation is undertaken;

(f) the circumstances in which the person is to be employed in the position.

Occupations for the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Direct Entry stream

(12) The requirements of this subregulation are as follows:

(a) the position is located at a place in regional Australia;

(b) the business operated by the nominator is located at that place;

(c) the position cannot be filled by an Australian citizen or an Australian permanent resident who is living in, or would move to, the local area concerned;

(d) the tasks to be performed in the position correspond to the tasks of an occupation specified in a legislative instrument:

(i) made under subregulation (13); and

(ii) as in force at the time the application is made;

(e) the occupation applies to the identified person in accordance with that instrument;

(f) the Minister has been advised by a body that meets the requirements set out in paragraph (g) of this subregulation about matters relating to the following:

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(i) whether the identified person would be paid at least the annual market salary rate for the occupation;
(ii) whether there is a genuine need for the identified person to be employed in the position, under the direct control of the nominator;
(iii) whether the position can be filled by an Australian citizen or an Australian permanent resident who is living in, or would move to, the local area concerned;

(g) the body must:
(i) be specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
(ii) be located in the State or Territory in which the position is located; and
(iii) have responsibility for the local area in which the position is located.

(13) The Minister may, by legislative instrument, specify occupations for the purposes of subregulation (12) and, for each occupation, specify any matters for the purposes of determining whether the occupation applies to an identified person, including matters relating to any of the following:
(a) the nominator;
(b) the identified person;
(c) the occupation;
(d) the position in which the identified person is to work;
(e) the circumstances in which the occupation is undertaken;
(f) the circumstances in which the person is to be employed in the position.

Labour Agreement stream—additional requirements for approval

(14) If the nomination relates to a visa in a Labour Agreement stream, the following requirements must also be met:
(a) the nominator is a party to a labour agreement;
(b) the labour agreement:
(i) is in effect; and
(ii) specifies the occupation as one in relation to which a position may be nominated for the purposes of this regulation;
(c) if the labour agreement specifies requirements that must be met by a party to the labour agreement—the requirements of the labour agreement have been met;
(d) the number of nominations approved by the Minister under this regulation on application by the nominator is less than the number of approved nominations permitted under the labour agreement for the year.

Minister must give notice of approval or refusal

(15) As soon as practicable after deciding whether to approve, or refuse to approve, the nomination, the Minister must give the nominator:
(a) a copy of the written approval or refusal; and
(b) if the Minister refuses to approve the nomination:

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(i) a written statement of the reasons why the nomination was refused; and

(ii) a written statement that the decision is a reviewable migration decision.

Note: Division 4.1 deals with review of decisions. Paragraph 4.02(4)(e) provides that a decision under regulation 5.19 to refuse an application is a reviewable migration decision.

*Meaning of **regional Australia***

(16) In this regulation:

regional Australia means a part of Australia specified in legislative instrument made by the Minister for the purposes of this definition.

5.19A Designated investment

(1) Subject to subregulation (2), the Minister may, by legislative instrument, specify a security issued by an Australian State or Territory government authority as a security in which an investment is a designated investment for the purposes of a Part of Schedule 2.

(2) The Minister may so specify a security if and only if:

(a) an investment in the security matures in not less than 4 years from its date of issue; and

(b) repayment of principal is guaranteed by the issuing authority; and

(c) an investment in the security cannot be transferred or redeemed before maturity except by operation of law or under other conditions acceptable to the Minister; and

(d) investment in the security is open to the general public at commercially competitive rates of return; and

(e) the Minister is satisfied that the Commonwealth will not be exposed to any liability as a result of an investment in the security by a person.

5.19B Complying investment

(1) An investment by a person (the ***investor***) is a ***complying investment*** if all of the requirements in this regulation are met.

Description

(2) The investment must consist of one or more of the following:

(a) an investment in a government bond (however described) of the Commonwealth, a State or Territory; or

(b) a direct investment in an Australian proprietary company that meets the following requirements:

(i) the company is not listed on an Australian stock exchange;

(ii) the company has not been established wholly or substantially for the purpose of creating compliance with this paragraph;

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(iii) the investment is an ownership interest in the company;

(c) an investment in a managed fund (directly or through an investor directed portfolio service) for a purpose specified by the Minister in an instrument, in writing, for this paragraph.

(3) The funds used to make the investment are:

(a) unencumbered; and

(b) lawfully acquired.

Investor

(4) The investor must be an individual.

(5) The investor must make the investment:

(a) personally; or

(b) with the investor's spouse or de facto partner; or

(c) by means of a company that has issued shares and in which:

(i) the investor holds all of the issued shares; or

(ii) the investor and the investor's spouse or de facto partner hold all of the issued shares; or

(d) by means of a trust:

(i) that is lawfully established; and

(ii) of which:

(A) the investor is the sole trustee; or

(B) the investor and the investor's spouse or de facto partner are the sole trustees; and

(iii) of which:

(A) the investor is the sole beneficiary; or

(B) the investor and the investor's spouse or de facto partner are the sole beneficiaries.

(6) If:

(a) an investor withdraws money from a complying investment, or cancels the investment; and

(b) the investor makes an investment of at least the value of the withdrawn money or cancelled investment in one or more other investments mentioned in subregulation (2); and

(c) no more than 30 days passes between the events mentioned in paragraphs (a) and (b);

the investment is taken not to have ceased to be a complying investment during the period between the events mentioned in paragraphs (a) and (b).

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5.19C Complying significant investment

Definition

(1) An investment by a person (the ***investor***) is a ***complying significant investment*** if all of the requirements of this regulation are met.

(2) If an investment (the ***overall investment***) is based on one or more other investments, this regulation (and any instrument under subregulation (6)) applies equally to the overall investment and each investment on which the overall investment is based.

Investment requirements

(3) All funds used to make the investment must be unencumbered and lawfully acquired.

(4) The investment:
  (a) must be lawful; and
  (b) must not form the basis for security or collateral for a loan.

(5) The investment, and the means by which the investment is made:
  (a) must be of a kind permitted by the requirements specified in an instrument under subregulation (6); and
  (b) must comply with any requirements specified in an instrument under subregulation (6).

(6) The Minister may, by legislative instrument, specify requirements for the purposes of subregulation (5).

Investment switching periods

(7) Subregulation (8) applies in relation to a period (the ***switching period***):
  (a) beginning when the investor withdraws funds from the investment, or cancels the investment; and
  (b) ending when the investor reinvests the withdrawn funds, or the funds used to make the cancelled investment.

(8) If the switching period is of no more than 30 days duration, the investment is taken not to have ceased to be a complying significant investment during the switching period only because of the event mentioned in paragraph (7)(a).

Investor requirements

(9) The investor must be an individual.

(10) The investor must make the investment:
  (a) personally; or
  (b) with the investor's spouse or de facto partner; or
  (c) by means of a company that has issued shares and in which:

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(i) the investor holds all of the issued shares; or
(ii) the investor and the investor's spouse or de facto partner hold all of the issued shares; or

(d) by means of a trust to which the following applies:
(i) the trust is lawfully established;
(ii) the investor is the sole trustee or the investor and the investor's spouse or de facto partner are the sole trustees;
(iii) the investor is the sole beneficiary or the investor and the investor's spouse or de facto partner are the sole beneficiaries.

5.19D Complying premium investment

Definition

(1) An investment or a philanthropic contribution, or a combined investment and philanthropic contribution, by a person (the ***investor***) is a ***complying premium investment*** if all of the requirements of this regulation are met.

(2) If an investment (the ***overall investment***) is based on one or more other investments, this regulation (and any instrument under subregulation (8)) applies equally to the overall investment and each investment on which the overall investment is based.

(3) If a philanthropic contribution (the ***overall contribution***) is based on one or more other philanthropic contributions, this regulation applies equally to the overall contribution and each philanthropic contribution on which the overall contribution is based.

Investment and philanthropic contribution requirements

(4) All funds used to make an investment or philanthropic contribution (or both) must be unencumbered and lawfully acquired.

(5) An investment or philanthropic contribution (or both):
(a) must be lawful; and
(b) must not form the basis for security or collateral for a loan.

Philanthropic contribution requirement

(6) A philanthropic contribution must be approved for this regulation, in writing, by a State or Territory government agency.

Investment requirements

(7) An investment, and the means by which an investment is made:
(a) must be of a kind permitted by the requirements specified in an instrument under subregulation (8); and
(b) must comply with any requirements specified in an instrument under subregulation (8).

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(8) The Minister may, by legislative instrument, specify requirements for the purposes of subregulation (7).

Investment switching periods

(9) Subregulation (10) applies in relation to a period (the ***switching period***):
  (a) beginning when the investor withdraws funds from an investment, or cancels an investment; and
  (b) ending when the investor reinvests the withdrawn funds, or the funds used to make the cancelled investment.

(10) If the switching period is of no more than 30 days duration, the investment (whether or not combined with a philanthropic contribution) is taken not to have ceased to be a complying premium investment during the switching period only because of the event mentioned in paragraph (9)(a).

Investor requirements

(11) The investor must be an individual.

(12) The investor must make an investment or philanthropic contribution (or both):
  (a) personally; or
  (b) with the investor's spouse or de facto partner; or
  (c) by means of a company that has issued shares and in which:
    (i) the investor holds all of the issued shares; or
    (ii) the investor and the investor's spouse or de facto partner hold all of the issued shares; or
  (d) by means of a trust to which the following applies:
    (i) the trust is lawfully established;
    (ii) the investor is the sole trustee or the investor and the investor's spouse or de facto partner are the sole trustees;
    (iii) the investor is the sole beneficiary or the investor and the investor's spouse or de facto partner are the sole beneficiaries.

5.19E Complying entrepreneur activity

(1) An activity that an applicant for a visa is undertaking, or proposing to undertake, is a ***complying entrepreneur activity*** if all the requirements set out in this regulation are met.

Note: For the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream, the applicant must be undertaking, or proposing to undertake, a complying entrepreneurial activity (see Subdivision 188.28 of Schedule 2).

(2) The activity:
  (a) relates to an innovative idea that is proposed to lead to:
    (i) the commercialisation of a product or service in Australia; or
    (ii) the development of an enterprise or business in Australia; and

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(b) does not relate to an activity specified, whether individually or by class, in an instrument under subregulation (6).

(3) If the applicant is invited to apply for the visa before 1 July 2021, all of the following apply:

(a) funding in relation to the activity is to be provided to any of the following (the ***entrepreneurial entity***):

(i) the applicant;

(ii) a body corporate;

(iii) a partnership;

(b) the funding is to be provided under one or more legally enforceable agreements in effect between the entrepreneurial entity and one or more entities covered by subregulation (5);

(c) if the applicant is not the entrepreneurial entity—the applicant personally held, at the time the agreement or each agreement was entered into, at least a 30% share in the ownership of the entrepreneurial entity;

(d) the total amount of the funding provided or to be provided under the agreement or agreements is at least $200,000;

(e) under the agreement or each agreement, at least 10% of the funding is to be paid to the entrepreneurial entity within 12 months of the day the activity starts to be undertaken in Australia;

(f) there is in place a business plan for the entrepreneurial entity that the Minister considers to be appropriately formulated to lead to a result mentioned in subparagraph (2)(a)(i) or (ii);

(g) all of the funding provided or to be provided to the entrepreneurial entity under the agreement or agreements is unencumbered and lawfully acquired.

(5) An entity is covered by this subregulation if the entity is both:

(a) any of the following:

(i) an agency of the Commonwealth, a State or a Territory, or a body established under a law of the Commonwealth, a State or a Territory;

(ii) a body corporate;

(iii) a partnership;

(iv) an unincorporated body;

(v) an individual;

(vi) the trustee of a trust that has only 1 trustee;

(vii) the trustees together of a trust that has more than 1 trustee; and

(b) specified, whether by name or by class, in an instrument made under subregulation (6).

(6) The Minister may, by legislative instrument, specify:

(a) activities for the purposes of paragraph (2)(b); and

(b) entities for the purposes of paragraph (5)(b).

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Division 5.3A—Offences and civil penalties in relation to work by non-citizens

5.19G Allowing an unlawful non-citizen to work

(1) For paragraph 245AB(2)(a) of the Act, the computer system operated by the Department, and known as "Visa Entitlement Verification Online", or "VEVO", is prescribed.

(2) For paragraph 245AB(2)(b) of the Act, each of the following is a prescribed thing:

(a) the entry into a contract under which a party to the contract performs either or both of the following functions:

(i) verifying that a person has the required permission to work in Australia (however that is described in the contract);

(ii) supplying persons who have the required permission to work in Australia (however that is described in the contract);

(b) the inspection of:

(i) a document that appears to be the worker's Australian passport; or

(ii) a document that appears to be the worker's New Zealand passport; or

(iii) a document that appears to be the worker's Australian certificate of citizenship, accompanied by a form of identification featuring a photograph of the worker; or

(iv) a document that appears to be a certificate of evidence of the worker's Australian citizenship, accompanied by a form of identification featuring a photograph of the worker; or

(v) a document that appears to be the worker's Australian birth certificate, accompanied by a form of identification featuring a photograph of the worker; or

(vi) a document that appears to be a Certificate of Evidence of Resident Status for the worker, accompanied by a form of identification featuring a photograph of the worker; or

(vii) a document that appears to be a Certificate of Status for New Zealand Citizens in Australia for the worker, accompanied by a form of identification featuring a photograph of the worker.

Example: An example of a form of identification is a driver's licence.

Note: Subsection 245AB(1) of the Act does not apply if reasonable steps are taken at reasonable times to verify that a worker is not an unlawful non-citizen, including (but not limited to) either of the following steps:

(a) using a computer system prescribed by the regulations to verify that matter;

(b) doing any one or more things prescribed by the regulations.

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5.19H Allowing a lawful non-citizen to work in breach of a work-related condition

(1) For paragraph 245AC(2)(a) of the Act, the computer system operated by the Department, and known as "Visa Entitlement Verification Online", or "VEVO", is prescribed.

(2) For paragraph 245AC(2)(b) of the Act, each of the following is a prescribed thing:

(a) the entry into a contract under which a party to the contract performs either or both of the following functions:

(i) verifying that a person has the required permission to work in Australia (however that is described in the contract);

(ii) supplying persons who have the required permission to work in Australia (however that is described in the contract);

(b) the inspection of:

(i) a document that appears to be the worker's Australian passport; or

(ii) a document that appears to be the worker's New Zealand passport; or

(iii) a document that appears to be the worker's Australian certificate of citizenship, accompanied by a form of identification featuring a photograph of the worker; or

(iv) a document that appears to be a certificate of evidence of the worker's Australian citizenship, accompanied by a form of identification featuring a photograph of the worker; or

(v) a document that appears to be the worker's Australian birth certificate, accompanied by a form of identification featuring a photograph of the worker; or

(vi) a document that appears to be a Certificate of Evidence of Resident Status for the worker, accompanied by a form of identification featuring a photograph of the worker; or

(vii) a document that appears to be a Certificate of Status for New Zealand Citizens in Australia for the worker, accompanied by a form of identification featuring a photograph of the worker.

Example: An example of a form of identification is a driver's licence.

Note: Subsection 245AC(1) of the Act does not apply if reasonable steps are taken at reasonable times to verify that a worker is not in breach of a work-related condition solely because of doing the work referred to in that subsection, including (but not limited to) either of the following steps:

(a) using a computer system prescribed by the regulations to verify that matter;

(b) doing any one or more things prescribed by the regulations.

5.19J Referring an unlawful non-citizen for work

(1) For paragraph 245AE(2)(a) of the Act, the computer system operated by the Department, and known as "Visa Entitlement Verification Online", or "VEVO", is prescribed.

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(2) For paragraph 245AE(2)(b) of the Act, each of the following is a prescribed thing:

(a) the entry into a contract under which a party to the contract performs the function of verifying that a person has, or will have, the required permission to work in Australia (however that is described in the contract);

(b) the inspection of:

(i) a document that appears to be the prospective worker's Australian passport; or

(ii) a document that appears to be the prospective worker's New Zealand passport; or

(iii) a document that appears to be the prospective worker's Australian certificate of citizenship, accompanied by a form of identification featuring a photograph of the prospective worker; or

(iv) a document that appears to be a certificate of evidence of the prospective worker's Australian citizenship, accompanied by a form of identification featuring a photograph of the prospective worker; or

(v) a document that appears to be the prospective worker's Australian birth certificate, accompanied by a form of identification featuring a photograph of the prospective worker; or

(vi) a document that appears to be a Certificate of Evidence of Resident Status for the prospective worker, accompanied by a form of identification featuring a photograph of the prospective worker; or

(vii) a document that appears to be a Certificate of Status for New Zealand Citizens in Australia for the prospective worker, accompanied by a form of identification featuring a photograph of the prospective worker.

Example: An example of a form of identification is a driver's licence.

Note: Subsection 245AE(1) of the Act does not apply if reasonable steps are taken at reasonable times before the referral to verify that a prospective worker is not an unlawful non-citizen, including (but not limited to) either of the following steps:

(a) using a computer system prescribed by the regulations to verify that matter;

(b) doing any one or more things prescribed by the regulations.

5.19K Referring a lawful non-citizen for work in breach of a work-related condition

(1) For paragraph 245AEA(2)(a) of the Act, the computer system operated by the Department, and known as "Visa Entitlement Verification Online", or "VEVO", is prescribed.

(2) For paragraph 245AEA(2)(b) of the Act, each of the following is a prescribed thing:

(a) the entry into a contract under which a party to the contract performs the function of verifying that a person has, or will have, the required permission to work in Australia (however that is described in the contract);

(b) the inspection of:

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(i) a document that appears to be the prospective worker's Australian passport; or

(ii) a document that appears to be the prospective worker's New Zealand passport; or

(iii) a document that appears to be the prospective worker's Australian certificate of citizenship, accompanied by a form of identification featuring a photograph of the prospective worker; or

(iv) a document that appears to be a certificate of evidence of the prospective worker's Australian citizenship, accompanied by a form of identification featuring a photograph of the prospective worker; or

(v) a document that appears to be the prospective worker's Australian birth certificate, accompanied by a form of identification featuring a photograph of the prospective worker; or

(vi) a document that appears to be a Certificate of Evidence of Resident Status for the prospective worker, accompanied by a form of identification featuring a photograph of the prospective worker; or

(vii) a document that appears to be a Certificate of Status for New Zealand Citizens in Australia for the prospective worker, accompanied by a form of identification featuring a photograph of the prospective worker.

Example: An example of a form of identification is a driver's licence.

Note: Subsection 245AEA(1) of the Act does not apply if reasonable steps are taken at reasonable times before the referral to verify that a prospective worker will not be in breach of a work-related condition solely because of doing the work in relation to which he or she is referred, including (but not limited to) either of the following steps:

(a) using a computer system prescribed by the regulations to verify that matter;

(b) doing any one or more things prescribed by the regulations.

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Division 5.3B—Offences and civil penalties in relation to sponsored visas

5.19L Classes of sponsor

For the definition of ***sponsor class*** in section 245AQ of the Act, the following classes of sponsor are prescribed:

(a) a standard business sponsor;
(b) an entertainment sponsor;
(c) a superyacht crew sponsor;
(d) a long stay activity sponsor;
(e) a training and research sponsor;
(f) a temporary activities sponsor.

5.19M Kinds of sponsored visa

For the definition of ***sponsored visa*** in section 245AQ of the Act, the following kinds of visa are prescribed:

(a) a Subclass 186 (Employer Nomination Scheme) visa;
(b) a Subclass 187 (Regional Sponsored Migration Scheme) visa;
(c) a Subclass 401 (Temporary Work (Long Stay Activity)) visa;
(d) a Subclass 402 (Training and Research) visa in the Research stream;
(da) a Subclass 407 (Training) visa;
(db) a Subclass 408 (Temporary Activity) visa;
(e) a Subclass 420 (Temporary Work (Entertainment)) visa;
(f) a Subclass 457 (Temporary Work (Skilled)) visa;
(fa) a Subclass 482 (Temporary Skill Shortage) visa;
(g) a Subclass 488 (Superyacht Crew) visa;
(h) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

5.19N Sponsorship-related events

For paragraph (l) of the definition of ***sponsorship-related event*** in section 245AQ of the Act, each of the following is a prescribed event:

(a) a person becoming, or not ceasing to be, a party to a labour agreement that is not a work agreement;
(b) a person nominating a position in accordance with such a labour agreement in relation to a holder of, or an applicant or proposed applicant for, a sponsored visa, or including another person in such a nomination;
(c) a person not withdrawing a nomination of a position made in accordance with such a labour agreement in relation to a holder of, or an applicant or proposed applicant for, a sponsored visa.

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Division 5.4—Infringement notice penalties

5.20 Offences

(1) For paragraph 504(1)(i) of the Act (which authorises the Regulations to set penalties as an alternative to prosecution), the prescribed penalty for an offence against section 137 of the Act is:

(a) in the case of a failure by a person to supply the person's address—$250; or

(b) in any other case—$1 000.

(2) For paragraph 504(1)(j) of the Act, the prescribed penalty to be paid as an alternative to prosecution for a contravention of section 229 or 230 of the Act is:

(a) in the case of a natural person—$3 000; or

(b) in the case of a body corporate—$5 000.

(3) For paragraph 504(1)(jaa) of the Act, the prescribed penalty to be paid as an alternative to prosecution for a contravention of subsection 245N(2) of the Act is 10 penalty units.

5.20A Civil penalty provisions

(1) This regulation is made for the purposes of subsection 506A(1) of the Act.

(2) If:

(a) a person is alleged to have contravened subsection 140Q(1) of the Act; and

(b) the person is an approved work sponsor;

the person may pay the following penalty to the Commonwealth as an alternative to proceedings for a civil penalty order against the person:

(c) in case of a natural person—48 penalty units;

(d) in case of a body corporate—240 penalty units.

(3) If:

(a) a person is alleged to have contravened subsection 140Q(1) of the Act; and

(b) the person is an approved family sponsor;

the person may pay the following penalty to the Commonwealth as an alternative to proceedings for a civil penalty order against the person:

(c) in case of a natural person—12 penalty units;

(d) in case of a body corporate—60 penalty units.

(4) A person who is alleged to have contravened any of the following provisions of the Act may pay the penalty specified in subregulation (5) to the Commonwealth as an alternative to proceedings for a civil penalty order against the person:

(a) subsection 140Q(2);

(b) subsection 245AAA(4);

(c) subsection 245AAB(4);

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(d) subsection 245AAC(4);
(e) subsection 245AB(5);
(f) subsection 245AC(5);
(g) subsection 245AE(5);
(h) subsection 245AEA(5);
(i) subsection 245AR(5);
(j) subsection 245AS(1);
(k) subsection 245AYL(4).

(5) For the purposes of subregulation (4), the penalty is:
(a) in case of a natural person—48 penalty units; or
(b) in case of a body corporate—240 penalty units.

(6) A person who is alleged to have contravened subsection 140XE(3) or 140XF(3) of the Act may pay the following penalty to the Commonwealth as an alternative to proceedings for a civil penalty order against the person:
(a) in case of a natural person—12 penalty units;
(b) in case of a body corporate—60 penalty units.

(7) A person who is alleged to have contravened subsection 140RB(5), 245AYN(3) or 245AYP(5) of the Act may pay the following penalty to the Commonwealth as an alternative to proceedings for a civil penalty order against the person:
(a) in case of a natural person—9 penalty units;
(b) in case of a body corporate—45 penalty units.

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Division 5.5—Infringement notices

5.21 Interpretation

In this Division:

authorised officer includes the Secretary.

business visa has the same meaning as in section 137 of the Act.

civil penalty provision means any of the following provisions of the Act:

(a) subsection 140Q(1);
(b) subsection 140Q(2);
(ba) subsection 140RB(5);
(c) subsection 140XE(3);
(d) subsection 140XF(3);
(da) subsection 245AAA(4);
(db) subsection 245AAB(4);
(dc) subsection 245AAC(4);
(e) subsection 245AB(5);
(f) subsection 245AC(5);
(g) subsection 245AE(5);
(h) subsection 245AEA(5);
(i) subsection 245AR(5);
(j) subsection 245AS(1);
(k) subsection 245AYL(4);
(l) subsection 245AYN(3);
(m) subsection 245AYP(5).

infringement notice means a notice under regulation 5.22.

infringement notice penalty:

(a) for an offence—means the penalty prescribed by regulation 5.20 for the offence; and
(b) for a civil penalty provision—means the penalty prescribed by regulation 5.20A for the civil penalty provision.

offence means a contravention of:

(a) section 137, 229 or 230 of the Act; or
(b) subsection 245N(2) of the Act.

sponsorship-related civil penalty provision means any of the following provisions of the Act:

(a) subsection 140Q(1);
(b) subsection 140Q(2);
(ba) subsection 140RB(5);

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(c) subsection 140XE(3);
(d) subsection 140XF(3).

work-related civil penalty provision means any of the following provisions of the Act:

(aa) subsection 245AAA(4);
(ab) subsection 245AAB(4);
(ac) subsection 245AAC(4);
(a) subsection 245AB(5);
(b) subsection 245AC(5);
(c) subsection 245AE(5);
(d) subsection 245AEA(5);
(e) subsection 245AYL(4);
(f) subsection 245AYN(3);
(g) subsection 245AYP(5).

5.22 When can an infringement notice be served?

(1) If an authorised officer has reason to believe that a person has committed an offence or has contravened a civil penalty provision, the officer may cause an infringement notice to be served on the person in accordance with this Division.

(2) An infringement notice must be served within 12 months of the date on which, or the last day of the period over which, an offence is alleged to have been committed or a civil penalty provision is alleged to have been contravened.

(3) An infringement notice must not be served on a person in relation to:
(a) a failure to satisfy a sponsorship obligation prescribed in regulation 2.78; or
(b) a failure to satisfy a sponsorship obligation prescribed in regulation 2.85.

Note: Regulation 2.78 prescribes an obligation to cooperate with inspectors. Regulation 2.85 prescribes an obligation to secure an offer of a reasonable standard of accommodation for a primary sponsored person or secondary sponsored person.

5.23 What must an infringement notice contain?

(1) An infringement notice must:
(a) state the name of the authorised officer who caused the notice to be served; and
(b) if the notice is for the alleged commission of an offence—set out:
(i) the day on which the offence is alleged to have been committed; and
(ii) if the offence is against section 229 or 230 of the Act, the place at which the offence is alleged to have been committed; or
(ba) if the notice is for an alleged contravention of a civil penalty provision—set out the day on which, or the period over which, the civil penalty provision is alleged to have been contravened; and

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(c) give brief particulars of the alleged offence or the alleged contravention of a civil penalty provision; and
(d) set out the infringement notice penalty; and
(e) state that, if the person on whom it is served does not wish the matter to be dealt with by a court, he or she may pay that penalty within 28 days after the date of service of the notice unless the notice is withdrawn before the end of that period; and
(f) specify where and how that penalty may be paid; and
(g) set out the procedures relating to the withdrawal of notices and the consequences of the withdrawal of a notice.

(2) An infringement notice for a contravention of a sponsorship-related civil penalty provision must also state that if the provision is contravened after the day on which, or the period over which, the contravention specified in the notice occurred:
(a) the person will have contravened the provision again; and
(b) further action may be taken as mentioned in section 140K of the Act.

(3) An infringement notice for a contravention of a work-related civil penalty provision, or subsection 245AR(5) or 245AS(1) of the Act, must also state the grounds on which the infringement notice may be withdrawn.

(4) An infringement notice for a contravention of a work-related civil penalty provision, or subsection 245AR(5) or 245AS(1) of the Act, must also state that the grounds on which the infringement notice may be withdrawn are not exhaustive.

(5) An infringement notice may contain any other particulars that the authorised officer considers necessary.

5.24 Can the time for payment be extended?

If an infringement notice has been served on a person, an authorised officer may, if he or she is satisfied that in all the circumstances it is proper to do so, allow a further period for payment of the infringement notice penalty, whether or not the period of 28 days after the date of service of the notice has expired.

5.25 What happens if the infringement notice penalty is paid?

If the person on whom an infringement notice is served pays the infringement notice penalty in relation to the alleged offence or the alleged contravention of a civil penalty provision before:
(a) the end of:
(i) the period of 28 days after the date of service of the notice; or
(ii) if a further period has been allowed under regulation 5.24—that further period; or
(b) the notice is withdrawn;
whichever happens first, then:

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(c) any liability of the person in respect of the alleged offence or the alleged contravention of the civil penalty provision is discharged; and
(d) no further proceedings may be taken in respect of the alleged offence or the alleged contravention of the civil penalty provision; and
(e) the person is not to be taken to have been convicted of the alleged offence.

5.26 Can an infringement notice be withdrawn?

(1) If an infringement notice has been served on a person, an authorised officer may withdraw it by notice in writing served on the person in accordance with these Regulations, at any time before:
(a) the end of 28 days after the date of service of the notice; or
(b) if a further period has been allowed under regulation 5.24—the end of that further period.

(2) An infringement notice for:
(a) an alleged offence against section 229 or 230 of the Act; or
(b) an alleged contravention of a civil penalty provision;
must not be withdrawn under subregulation (1) after the expiry of 3 months commencing on the day on which the notice was served.

5.27 Refund of infringement notice penalty if notice withdrawn

If:
(a) an infringement notice has been served on a person; and
(b) the person has paid the infringement notice penalty in accordance with the notice; and
(c) the notice is subsequently withdrawn;
an authorised officer must arrange for the refund to the person of an amount equal to the amount so paid.

5.28 Evidence

(1) In the hearing of proceedings for:
(a) a prosecution for an offence specified in an infringement notice; or
(b) an application for a pecuniary penalty order in relation to a contravention of a civil penalty provision specified in an infringement notice;
a certificate signed by an authorised officer and stating a matter mentioned in subregulation (2) is evidence of the matter.

(2) The matter is that:
(a) the authorised officer did not allow further time for payment of the infringement notice penalty and the penalty was not paid within 28 days after the date of service of the infringement notice; or
(b) the authorised officer allowed a further period (as specified in the certificate) for payment of the infringement notice penalty and the penalty was not paid within the further period; or

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(c) the authorised officer withdrew the infringement notice on a day specified in the certificate.

(3) A certificate that purports to have been signed by an authorised officer is taken to have been signed by that person unless the contrary is proved.

5.29 Can there be more than one infringement notice for the same offence or contravention of a civil penalty provision?

This Division does not prevent more than one infringement notice being served on a person for the same offence or the same contravention of a civil penalty provision, but regulation 5.25 applies to the person if the person pays the infringement notice penalty in accordance with one of the infringement notices.

5.30 What if payment is made by cheque?

If a cheque is offered to Immigration as payment of all or part of the amount of a penalty specified in an infringement notice, payment is taken not to have been made unless the cheque is honoured upon presentation.

5.31 Infringement notice not compulsory

Nothing in this Division:

(a) requires an infringement notice to be served on a person in relation to an offence or a contravention of a civil penalty provision; or

(b) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if the person does not comply with an infringement notice; or

(c) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if an infringement notice is not served on the person in relation to the offence or in relation to a contravention of a civil penalty provision; or

(d) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if an infringement notice is served and withdrawn; or

(e) limits the amount of:

(i) the fine that may be imposed by a court on a person convicted of an offence; or

(ii) the pecuniary penalty that may be imposed by a court on a person for a contravention of a civil penalty provision.

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Division 5.6—Miscellaneous

5.32 Search warrants (Act, ss 223(14) and 251(4))

(1) A search warrant for the purposes of subsection 223(14) of the Act (dealing with directions about, and seizure of, the valuables of non-citizens in detention) is to be in accordance with prescribed form 1.

(2) A search warrant for the purposes of subsection 251(4) of the Act (dealing with entry and search for unlawful non-citizens) is to be in accordance with prescribed form 2.

5.32A Work performed by unlawful non-citizen in detention centre

For subsection 235(6) of the Act, the circumstance is that the work:

(a) is performed by an unlawful non-citizen who is detained in a detention centre established under the Act; and

(b) is allocated to the unlawful non-citizen, at the non-citizen's request, by an officer at the detention centre.

5.34 Application of Chapter 2 of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies, on and after 1 November 2001, to offences against these Regulations.

5.34D Disclosure of information to prescribed bodies

For paragraph 336F(1)(d) of the Act (which deals with the authorised disclosure of identifying information to various bodies), a body of:

(a) a foreign country; or

(b) the Commonwealth; or

(c) a State; or

(d) a Territory;

that is specified in a legislative instrument made by the Minister for this regulation is a prescribed body.

5.34E Disclosure of information to prescribed international organisations

For paragraph 336F(1)(e) of the Act (which deals with the authorised disclosure of identifying information to international organisations), an organisation that is specified in a legislative instrument made by the Minister for this regulation is a prescribed international organisation.

5.34F Disclosure of information to police and Australian Crime Commission

(1) This regulation applies in relation to the following:

(a) a person who holds:

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(i) a Subclass 050 (Bridging (General)) visa; or
(ii) a Subclass 051 (Bridging (Protection Visa Applicant)) visa;

(b) a person covered by a residence determination.

(2) The Minister may authorise the disclosure of any information mentioned in subregulation (4) about the person, or a class of such persons, to the following:
(a) the Australian Federal Police;
(b) the police force or police service of a State or Territory;
(c) the Australian Crime Commission.

(3) The Minister may authorise the disclosure only if the Minister reasonably believes the disclosure is necessary or appropriate for the performance of functions or the exercise of powers under the Act.

(4) For subregulation (2), the information is the following:
(a) the name of the person or the names of persons in the class;
(b) the residential address of the person or the residential addresses of persons in the class;
(c) the sex of the person or of persons in the class;
(d) the date of birth of the person or the dates of birth of persons in the class;
(e) the immigration status of the person or of persons in the class;
(f) the CNI number of the person or persons;
(g) the client number of the person or persons.

5.35 Medical treatment of persons in detention under the Act

(1) In this regulation:

detainee means a person held at a detention centre in detention under the Act.

medical treatment includes:
(a) the administration of nourishment and fluids; and
(b) treatment in a hospital.

(2) The Secretary may authorise medical treatment to be given to a detainee if:
(a) the Secretary, acting in person and on the written advice of:
(i) a Commonwealth Medical Officer; or
(ii) another registered medical practitioner;
forms the opinion that:
(iii) that detainee needs medical treatment; and
(iv) if medical treatment is not given to that detainee, there will be a serious risk to his or her life or health; and
(b) that detainee fails to give, refuses to give, or is not reasonably capable of giving, consent to the medical treatment.

(3) An authorisation by the Secretary under subregulation (2) is authority for the use of reasonable force (including the reasonable use of restraint and sedatives) for the purpose of giving medical treatment to a detainee.

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(4) A detainee to whom medical treatment is given under an authorisation under subregulation (2) is taken for all purposes to have consented to the treatment.

(5) Medical treatment that is given under an authorisation under subregulation (2) must be given by, or in the presence of, a registered medical practitioner.

(6) Nothing in this regulation authorises the Secretary to require a registered medical practitioner to act in a way contrary to the ethical, moral or religious convictions of that medical practitioner.

5.35AA Decisions that are not privative clause decisions

For subsection 474(5) of the Act, a decision, or a decision included in a class of decisions, made under a provision of the Act set out in the following table is not a privative clause decision.

Item	Provision	Subject matter of provision
1	section 252AA	Power to conduct a screening procedure
2	section 252A	Power to conduct a strip search
3	section 252B	Rules for conducting a strip search
4	section 252C	Possession and retention of certain things obtained during a screening procedure or strip search
5	section 252D	Authorised officer may apply for a thing to be retained for a further period
6	section 252E	Magistrate may order that thing be retained
7	section 252G	Powers concerning entry to a detention centre
8	Division 13A of Part 2	Automatic forfeiture of things used in certain offences

5.35AB Tax file numbers

(1) For the purposes of subsection 506B(1) of the Act, the following kinds of visas are prescribed:
- (a) a Subclass 124 (Distinguished Talent) visa;
- (b) a Subclass 132 (Business Talent) visa;
- (c) a Subclass 186 (Employer Nomination Scheme) visa;
- (d) a Subclass 187 (Regional Sponsored Migration Scheme) visa;
- (e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa;
- (f) a Subclass 189 (Skilled—Independent) visa;
- (g) a Subclass 190 (Skilled—Nominated) visa;
- (ga) a Subclass 191 (Permanent Residence (Skilled Regional)) visa;
- (h) a Subclass 457 (Temporary Work (Skilled)) visa;
- (i) a Subclass 476 (Skilled—Recognised Graduate) visa;
- (j) a Subclass 482 (Temporary Skill Shortage) visa;
- (k) a Subclass 485 (Temporary Graduate) visa;

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(l) a Subclass 489 (Skilled—Regional (Provisional)) visa;
(la) a Subclass 491 (Skilled Work Regional (Provisional)) visa;
(lb) a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
(m) a Subclass 858 (National Innovation) visa;
(n) a Subclass 887 (Skilled—Regional) visa;
(o) a Subclass 888 (Business Innovation and Investment (Permanent)) visa;
(p) a Subclass 890 (Business Owner) visa;
(q) a Subclass 891 (Investor) visa;
(r) a Subclass 892 (State/Territory Sponsored Business Owner) visa;
(s) a Subclass 893 (State/Territory Sponsored Investor) visa.

Note: As a result of this regulation, the Secretary may request certain persons to provide tax file numbers of applicants for, or holders or former holders of, the kinds of visas prescribed.

Purposes for using, recording or disclosing tax file numbers

(2) For the purposes of subsection 506B(7) of the Act, a tax file number provided under section 506B may be used, recorded or disclosed by an officer for any of the following purposes:
(a) verifying the identity of persons in relation to whom tax file numbers have been provided;
(b) ensuring compliance with the Act and these regulations by such persons, including compliance with sponsorship obligations and visa conditions;
(c) developing policy relating to visas of a kind prescribed under subregulation (1);
(d) researching, gathering intelligence, or identifying trends or risks, in relation to visas of a kind prescribed under subregulation (1).

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Division 5.6A—Powers under an agreement or arrangement with a foreign country

5.35A Definitions

In this Division:

place means any place in or outside Australia.

weapon includes any thing capable of being used to inflict bodily injury or to help an individual escape from restraint.

5.35B Exercise of power to restrain an individual

(1) In the exercise of a power under this Division to restrain an individual, the officer:

(a) must not use more force, or subject the individual to greater indignity, than is reasonably necessary to exercise the power; and

(b) must not do anything likely to cause the individual grievous bodily harm unless the officer believes on reasonable grounds that doing the thing is necessary to protect life or prevent serious injury to the individual or another individual (including the officer).

(2) In this regulation:

officer includes an individual assisting the officer.

5.35C Exercise of power to search an individual

(1) This regulation applies to a search under this Division of an individual, clothing of an individual or property under the immediate control of an individual.

(2) The purpose for which an individual, clothing of the individual or any property under the immediate control of the individual may be searched is to find out whether the individual is carrying a weapon, or a weapon is hidden on the individual, in the clothing or in the property.

(3) This regulation does not authorise an officer, or another individual conducting a search under subregulation (4), to remove any of the individual's clothing, or to require an individual to remove any of his or her clothing, except the individual's outer garments (including but not limited to the individual's overcoat, coat, jacket, gloves, shoes and head covering).

(4) A search of an individual, and the individual's clothing, must be conducted by:

(a) an officer of the same sex as the individual; or

(b) if an officer of the same sex as the individual is not available to conduct the search—any other individual who is of the same sex and:

(i) is requested by an officer; and

(ii) agrees;

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to conduct the search.

(5) An officer or other individual who conducts a search to which this regulation applies must not use more force, or subject the individual to greater indignity, than is reasonably necessary to conduct the search.

5.35D Protection of persons when acts done in good faith

(1) An action or proceeding, whether civil or criminal, does not lie, in respect of anything done in the exercise of a power under this Division to restrain an individual, against the Commonwealth, an officer or an individual assisting an officer if the officer or individual who does the thing acts in good faith and does not contravene regulation 5.35B.

(2) An action or proceeding, whether civil or criminal, does not lie against an individual who, at the request of an officer under subregulation 5.35C(4), conducts a search under that subregulation if the individual acts in good faith and does not contravene subregulation 5.35C(5).

5.35E Powers when boarding certain foreign ships (Act s 245F(14))

For subsection 245F(14) of the Act, the powers that the officer may exercise, consistently with the agreement or arrangement, are the powers to do the following:

(a) search, without warrant:
  (i) an individual on the ship; or
  (ii) the clothing of the individual; or
  (iii) any property under the immediate control of the individual;
(b) take possession of any weapon for as long as the officer thinks necessary for the purposes of this regulation;
(c) restrain any individual on board the ship for as long as the officer thinks necessary for the purposes of this regulation;
(d) detain the ship for as long as the officer thinks necessary for the purposes of this regulation;
(e) bring the ship, or cause it to be brought, to a place that the officer considers appropriate.

5.35F Powers when boarding certain foreign ships on the high seas (Act s 245G(4))

(1) For subsection 245G(4) of the Act, the powers that the officer may exercise, consistently with the agreement or arrangement, are the powers to do the following:

(a) search the ship;
(b) search, without warrant:
  (i) an individual on the ship; or
  (ii) the clothing or the individual; or
  (iii) any property under the immediate control of the individual;

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(c) take possession of any weapon for as long as the officer thinks necessary for the purposes of this regulation;
(d) restrain any individual on board the ship for as long as the officer thinks necessary for the purposes of this regulation;
(e) detain the ship for as long as the officer thinks necessary for the purposes of this regulation;
(f) bring the ship, or cause it to be brought, to a port or other place that the officer considers appropriate;
(g) return to the ship any individual who:
(i) was on the ship when it was initially detained under paragraph (e); and
(ii) later leaves the ship.

(2) Subject to this Division, an officer may use such force as is necessary and reasonable in the exercise of a power under this regulation.

(3) In searching the ship, an officer must not damage the ship or any goods on the ship by forcing open a part of the ship or the goods unless:
(a) the individual (if any) apparently in charge of the ship has been given a reasonable opportunity to open that part or the goods; or
(b) it is not reasonably practical to give that individual such an opportunity.

(4) An individual may be returned to a ship under paragraph (1)(g) only if the officer or individual assisting the officer is satisfied that it is safe to do so.

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Division 5.7—Charges and fees

5.36 Payment of visa application charges, and fees, in foreign currencies

(1) Payment of a fee, other than a visa application charge mentioned in subregulation (3A), must be made:

(a) in a place, being Australia or a foreign country, that is specified in a legislative instrument made by the Minister for the purposes of this paragraph; and

(b) in a currency that is specified for the purposes of this paragraph in a legislative instrument made by the Minister as a currency in which a fee may be paid in that place.

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

(1A) The amount of the payment is to be worked out as follows:

(a) if the currency in which the amount is to be paid is specified by the Minister in an instrument in writing for this paragraph, use the exchange rate for the currency specified in the notice;

(b) if the currency in which the amount is to be paid is not specified in an instrument for paragraph (a), use the formula in subregulation (2).

(2) The formula is:

$$AUD \times CER \times 1.05$$

where:

AUD means the amount of the fee in Australian dollars.

CER means the highest exchange rate that is lawfully obtainable on a commercial basis for the purchase in the foreign country of Australian currency with the currency of the foreign country in a period that:

(a) begins:

(i) on the day when this regulation commences; or

(ii) on any subsequent day when that rate increases or decreases by at least 5%; and

(b) ends at the end of each day before another period begins.

(3) If the amount worked out by that formula cannot be paid wholly in banknotes of that country, the corresponding amount is that amount rounded up to the nearest larger amount that is payable wholly in banknotes of that country.

(3A) A visa application charge payment made in accordance with regulation 2.12JA must be made in Australian dollars.

(4) In this regulation:

fee means:

(a) an instalment of visa application charge; or

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(b) an amount of visa evidence charge; or
(ba) an amount of nomination training contribution charge; or
(c) a fee payable under these Regulations except regulation 5.41C.

5.37 Employer nomination fee

(1) This regulation sets out the fee for an application under subregulation 5.19(1) for the Minister's approval of the nomination of a position.

Note: Paragraph 5.19(2)(f) requires the fee to accompany the application.

(2) If the application relates to a visa in a Temporary Residence Transition stream:
(a) if the position is located in regional Australia—no fee is payable; or
(b) if the position is not located in regional Australia—the fee is $540.

(3) If the application relates to a visa in a Direct Entry stream:
(a) if the application seeks to meet the requirements set out in subregulation 5.19(10) (Employer Nomination Scheme)—the fee is $540; or
(b) if the application seeks to meet the requirements set out in subregulation 5.19(12) (Regional Sponsored Migration Scheme)—no fee is payable.

(4) If the application relates to a visa in a Labour Agreement stream:
(a) if the position is located in regional Australia—no fee is payable; or
(b) if the position is not located in regional Australia—the fee is $540.

5.37A Refund of employer nomination fee and nomination training contribution charge

(1) The Minister may refund any fee mentioned in regulation 5.37, or any nomination training contribution charge mentioned in paragraph 5.19(2)(fa), paid in relation to a nomination if:
(a) any of subregulations (2) to (9) apply; and
(b) the Minister:
(i) receives a written request for a refund from the person who paid the amount; or
(ii) considers it is reasonable in the circumstances to refund the amount to the person who paid the amount without receiving a written request for a refund.

(2) This subregulation applies if the application for approval of the nomination is made because of a mistake by Immigration.

(3) This subregulation applies if:
(a) the nomination relates to a visa in a Labour Agreement stream; and
(b) the person is a party to a labour agreement; and
(c) the person withdraws the application for approval of the nomination before a decision is made under regulation 5.19 because:

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(i) the person has identified an occupation in the application that is not specified in the labour agreement as an occupation in relation to which a position may be nominated; or

(ii) the number of nominations approved by the Minister under regulation 5.19 on application by the person is equal to or greater than the number of approved nominations permitted under the labour agreement for the year.

(4) This subregulation applies if:

(a) the person withdraws the application for approval of the nomination before a decision is made under regulation 5.19; and

(b) the reason for withdrawing the application is that the information in the application used to work out the amount of nomination training contribution charge in relation to the nomination was incorrect.

(5) This subregulation applies if:

(a) the nomination relates to a visa in a Labour Agreement stream; and

(b) the person withdraws the application for approval of the nomination before a labour agreement is entered.

(6) This subregulation applies if:

(a) the nomination relates to a visa in a Temporary Residence Transition stream; and

(b) the person withdraws the application for approval of the nomination before a decision is made under regulation 5.19; and

(c) the reason for withdrawing the application is that the application, by mistake, identified the wrong occupation in relation to the position nominated.

(7) This subregulation applies if:

(a) the person withdraws the application for approval of the nomination before a decision is made under regulation 5.19; and

(b) the reason for withdrawing the application is that the application, by mistake, identified the wrong stream.

(8) This subregulation applies if:

(a) an application for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa made on the basis of the nomination is finally determined; and

(b) the grant of the visa is refused:

(i) under section 501, 501A or 501B of the Act; or

(ii) because the visa applicant did not satisfy public interest criterion 4001, 4002, 4003, 4003B, 4005, 4007 or 4020; or

(iii) because a member of the family unit of the visa applicant did not satisfy public interest criterion 4001, 4002, 4003, 4003B, 4005, 4007 or 4020.

(9) This subregulation applies if:

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(a) a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa is granted on the basis of the nomination; and
(b) the visa holder fails to commence employment in the position nominated.

(10) A refund under subregulation (1) must be paid to the person who paid the amount.

(11) A refund under subregulation (1) may be paid:
(a) in Australian currency; or
(b) if the amount in respect of which the refund is being paid was paid in another currency, in that other currency.

5.38 Sponsorship fee

(1) This regulation applies to sponsorship of an applicant if the applicant is applying for a temporary visa for which sponsorship is a requirement (other than a Subclass 600 (Visitor) visa).

(2) Subject to subregulation (3), a fee is payable for seeking to be approved as a sponsor in respect of a sponsorship of an applicant to which this regulation applies, as follows:
(a) if the person or organisation is seeking to sponsor more than 10 applicants together—$3 350;
(b) in any other case—$335 for each applicant the person or organisation is seeking to sponsor.

(3) If an application for a visa is not subject to a visa application charge, or a fee under these Regulations, no fee is payable for seeking to be approved as a sponsor in respect of that application.

5.40 Fees for assessment of a person's work qualifications and experience etc

(1) The fee payable to a non-corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* for:
(a) an application for assessment, for the purposes of the Act, of a person's occupational qualifications or experience (or both); and
(b) an application for assessment, for the purposes of the Act, of a person's educational qualifications; and
(c) an application for internal review of an assessment;
is the fee specified by the Minister in an instrument in writing for this regulation.

(2) Subject to subregulation (3), if, on an internal review of an assessment, a review authority decides in favour of the applicant, the fee paid for the internal review is to be refunded.

(3) A fee paid for an internal review is not to be refunded if the applicant provided evidence for the purposes of the review that was not provided for the purposes of the application for assessment.

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Regulation 5.41

5.41 Fee for further opinion of Medical Officer of the Commonwealth in merits review

(1) This regulation applies to a review by the ART of a refusal to grant a visa to a person, if:

(a) under regulation 2.25A, in determining whether the criteria for grant of the visa were satisfied, the Minister was required, to seek the opinion of a Medical Officer of the Commonwealth; and

(b) the refusal occurred wholly, or in part, because in the opinion of the Medical Officer of the Commonwealth, the person did not satisfy a requirement mentioned in subregulation 2.25A(1) or (2), as the case requires; and

(c) for the review—a further opinion of a Medical Officer of the Commonwealth is required.

(2) There is payable, for the further opinion mentioned in paragraph (1)(c), a fee of $520.

5.41C Fees for performing functions relating to certain international travellers using gateway airports

(1) If, at the request of a person, the Secretary arranges for a statutory function to be performed:

(a) in a special processing area for the performance of the function at a gateway airport; and

(b) in relation to one or more international travellers using the gateway airport;

the person must pay the Commonwealth an agreed fee in respect of the performance of the statutory function and any other statutory functions in relation to those international travellers.

Note: An agreed fee in respect of the performance of the statutory function and other statutory functions may be payable in anticipation of the performance of the function.

(2) On behalf of the Commonwealth, the Secretary may make, with a person making a request described in subregulation (1), an agreement relating to the amount and payment of a fee that is or will be payable under that subregulation.

(3) In these Regulations:

gateway airport means an aerodrome (whether a proclaimed airport or not) used by aircraft on overseas flights.

international traveller using a gateway airport means a person who:

(a) arrives at the gateway airport aboard an aircraft on an overseas flight; or

(b) is due to depart from the gateway airport aboard an aircraft on an overseas flight.

overseas flight means:

(a) a flight from a place outside Australia to a place in Australia; or

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(b) a flight from a place in Australia to a place outside Australia (whether or not after calling at other places in Australia).

special processing area of a gateway airport for the performance of a particular statutory function means:

(a) if the gateway airport is commonly used for overseas flights—an area of the gateway airport other than an area in which that function is performed in relation to:
  (i) a majority of international travellers arriving at the gateway airport aboard aircraft on overseas flights; or
  (ii) a majority of international travellers due to depart from the gateway airport aboard aircraft on overseas flights; or

(b) if the gateway airport is not commonly used for overseas flights—an area of the gateway airport in which that function is, or is to be, performed in relation to international travellers using the gateway airport.

statutory function means a function under:

(a) the Act; or

(b) regulations made under the Act.

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Division 5.7A—Nomination training contribution charge

5.42 Nominations that attract nomination training contribution charge

(1) For the purposes of subsection 140ZM(1) of the Act, a nomination of a proposed occupation under paragraph 140GB(1)(b) of the Act in relation to any of the following is prescribed:

(a) a holder of a Subclass 457 (Temporary Work (Skilled)) visa;

(b) a holder of a Subclass 482 (Temporary Skill Shortage) visa;

(c) an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa;

(d) a holder of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

(e) an applicant or a proposed applicant for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(2) For the purposes of paragraph 140ZM(2)(a) of the Act, the following kinds of visas are prescribed:

(a) Subclass 186 (Employer Nomination Scheme) visas;

(b) Subclass 187 (Regional Sponsored Migration Scheme) visas.

(3) For the purposes of paragraph 140ZM(2)(b) of the Act, nominations under regulation 5.19 are prescribed.

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Division 5.8—Multiple parties in migration litigation

5.43 Meaning of *family* (Act s 486B)

For paragraph 486B(7)(a) of the Act, ***family***, of an applicant in a migration proceeding, means:

(a) the spouse or de facto partner of the applicant; and

(b) the dependent children of the applicant.

5.44 Prescription of other persons (Act s 486B)

For paragraph 486B(7)(d) of the Act, the legal personal representative of a person who has a serious physical or mental incapacity and who is an applicant in a migration proceeding, or a member of the family of the applicant, is prescribed.

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Division 5.8A—Review of these Regulations

5.44A Review of these Regulations

Requirement for review

(1) The Secretary must ensure that there is a review of the operation of these Regulations.

Initial review in the 2017/18 financial year

(2) The first review must:
  (a) start during the period:
    (i) beginning on 1 July 2017; and
    (ii) ending on 30 June 2018; and
  (b) be completed within 2 years after the day that the review begins.

Subsequent 10 yearly reviews

(3) Subsequent reviews must:
  (a) start as soon as possible after the end of every 10 year period, with the first period beginning on 1 October 2017; and
  (b) be completed within 2 years after the day that the review begins.

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Division 5.9—Transitional arrangements

5.45 Operation of Schedule 13

Schedule 13 makes transitional arrangements in relation to amendments of these Regulations.

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Schedule 1—Classes of visa

(regulations 2.01 and 2.07)

Note: This Schedule sets out the specific ways in which a non-citizen applies for a visa of a particular class. An application that is not made as set out in this Schedule is not valid and will not be considered: see the Act, ss 45, 46 and 47.

Part 1—Permanent visas

1104BA Business Skills (Permanent) (Class EC)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$3 400
2	Additional applicant charge for an applicant who is at least 18	$1 705
3	Additional applicant charge for an applicant who is less than 18	$850

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the secondary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa; and (d) has not paid a second instalment of the visa application charge in relation to an application for a Subclass 188 (Business Innovation and Investment (Provisional)) visa	$4 890
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant seeking to satisfy the primary criteria must be nominated by:

(i) if the applicant is seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Business Innovation stream, the Investor stream or the Entrepreneur stream—a State or Territory government agency; or

(ii) if the applicant is seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Significant Investor stream—a State or Territory government agency or the CEO of Austrade; or

(iii) if the applicant is seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Premium Investor stream—the CEO of Austrade.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Permanent) (Class EC) visa may be made at the same time as, and combined with, the application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Business Innovation stream must meet the requirements in at least one item in the table.

Item	Requirements
1AA	The applicant: (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream; and (b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years
1	The applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream
1A	The applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream or the Business Innovation Extension stream and both the following apply: (a) the visa expired during a concession period; (b) the application is made no more than 3 months after the end of the concession period
2	The applicant: (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (a ***secondary visa***) granted on the basis that the applicant was the spouse or de facto partner of a person (the ***primary visa holder***) who held either: (i) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream; or (ii) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream; and (b) unless the primary visa holder was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream held by the primary visa holder—has held a secondary visa for at least 3 years

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Item	Requirements
2A	The applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the ***secondary visa***) granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream or the Business Innovation Extension stream and both the following apply: (a) the secondary visa expired during a concession period; (b) the application is made no more than 3 months after the end of the concession period
3	The applicant: (a) holds a Subclass 444 (Special Category) visa; and (b) unless that visa was granted before 1 July 2021—has held that visa for at least 3 years
4	The applicant holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that: (a) the applicant; or (b) the applicant's spouse or de facto partner (if any); or (c) the applicant's former spouse or de facto partner; satisfied the criteria in subclause 457.223(7) or (7A) of Schedule 2 for the grant of the visa

(5) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Investor stream must meet the requirements in at least one item in the table.

Item	Requirements
1	The applicant: (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream; and (b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years
2	The applicant: (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the ***secondary visa***) granted on the basis that the applicant was the spouse or de facto partner of a person (the ***primary visa holder***) who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the ***primary visa***) in the Investor stream; and (b) unless the primary visa holder was invited to apply for the primary visa before 1 July 2021—has held the secondary visa for at least 3 years
3	The applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream and both the following apply: (a) the visa expired during a concession period; (b) the application is made no more than 3 months after the end of the concession period
4	The applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the ***secondary visa***) granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream and both the following apply: (a) the secondary visa expired during a concession period; (b) the application is made no more than 3 months after the end of the concession period

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(5A) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Significant Investor stream must meet the requirements in at least one item in the table.

Item	Requirements
1A	The applicant: (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; and (b) unless the applicant was invited to apply for that visa before 1 July 2021—has held that visa for at least 3 years
1	The applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream
2	All of the following apply: (a) the applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa (a ***secondary visa***) granted on the basis that the applicant was the spouse or de facto partner of a person (the ***primary visa holder***) who held either: (i) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; or (ii) a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream; (b) either: (i) the applicant has ceased to be the spouse or de facto partner of the primary visa holder; or (ii) the primary visa holder has since died; (c) unless the primary visa holder was invited, before 1 July 2021, to apply for the Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream held by the primary visa holder—the applicant has held a secondary visa for at least 3 years
3	The applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream or the Significant Investor Extension stream and both the following apply: (a) the visa expired during a concession period; (b) the application is made no more than 3 months after the end of the concession period
4	Both of the following apply: (a) the applicant was the holder of a Subclass 188 (Business Innovation and Investment (Provisional)) visa (the secondary visa) granted on the basis that the applicant was the spouse or de facto partner of a person who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream or the Significant Investor Extension stream and both the following apply: (i) the secondary visa expired during a concession period; (ii) the application is made no more than 3 months after the end of the concession period; (b) either: (i) the applicant has ceased to be the spouse or de facto partner of that person; or (ii) that person has since died

(5B) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Premium Investor stream must meet the requirements in at least one item in the table.

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Item	Requirements
1	The applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Premium Investor stream
2	Both of the following apply: (a) the applicant holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa granted on the basis that the applicant was the spouse or de facto partner of a person (the ***primary visa holder***) who held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Premium Investor stream; (b) either: (i) the applicant has ceased to be the spouse or de facto partner of the primary visa holder; or (ii) that primary visa holder has since died

(5C) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa in the Entrepreneur stream must meet either of the following requirements:

(a) the applicant:

(i) must hold a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream; and

(ii) unless the applicant was invited to apply for that visa before 1 July 2021—must have held that visa for at least 3 years;

(b) the applicant must have held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream and both the following apply:

(i) the visa expired during a concession period;

(ii) the application is made no more than 3 months after the end of the concession period.

(6) Subclasses:

Subclass 888 (Business Innovation and Investment (Permanent))

1104B Business Skills (Residence) (Class DF)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(B) whose application is combined, or sought to be combined, with an application made by that holder:

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(ii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$2 890
2	Additional applicant charge for an applicant who is at least 18	$1 445
3	Additional applicant charge for an applicant who is less than 18	$720

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the secondary criteria for the grant of a visa of a subclass included in Business Skills (Residence) (Class DF); and (d) is not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR); and (e) is not the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa	$4 890
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant seeking to satisfy the primary criteria must be in Australia, but not in immigration clearance.

(c) Applicant seeking to satisfy the secondary criteria may be in or outside Australia, but not in immigration clearance.

(d) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 890 (Business Owner) visa must hold a visa of a subclass included in Business Skills (Provisional) (Class UR), granted on the basis that the

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applicant, or the spouse or de facto partner of the applicant (if any), or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa.

(e) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 891 (Investor) visa must hold a Subclass 162 (Investor (Provisional)) visa granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

(f) For an applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa, applicant must hold a visa of a subclass included in Business Skills (Provisional) (Class UR), granted on the basis that the applicant, or the spouse or de facto partner of the applicant (if any), or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa.

(g) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 893 (State/Territory Sponsored Investor) visa must hold a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

(h) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Residence) (Class DF) visa may be made at the same time and place as, and combined with, the application by that person.

(i) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) or 893 (State/Territory Sponsored Investor) visa:

(i) applicant must be sponsored by an appropriate regional authority; and

(ii) form 949 must be signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

(4) Subclasses:

890 (Business Owner)

891 (Investor)

892 (State/Territory Sponsored Business Owner)

893 (State/Territory Sponsored Investor)

1108 Child (Migrant) (Class AH)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who appears to the Minister, on the basis of information contained in the application, to be an orphan relative; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

(ii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$3 140
2	Additional applicant charge for an applicant who is at least 18	$1 570
3	Additional applicant charge for an applicant who is less than 18	$790

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) Applicant must be outside Australia.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Child (Migrant) (Class AH) visa may be made at the same time and place as, and combined with, the application by that person.

(c) An application is not a valid application if:

(i) the applicant seeks to meet the requirements in subclause 102.211(2) of Schedule 2 by claiming to have been adopted in an overseas country at a particular time; and

(ii) the country is specified by the Minister in a legislative instrument made for the purposes of this paragraph; and

(iii) if a period is specified in the instrument in relation to the country—the time referred to in subparagraph (i) is within that period.

(4) Subclasses:

101 (Child)

102 (Adoption)

117 (Orphan Relative)

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1108A Child (Residence) (Class BT)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who appears to the Minister, on the basis of information contained in the application, to be an orphan relative; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

(iii) for an applicant whose application is:

(A) supported by a letter of support from a State or Territory government welfare authority; or

(B) combined, or sought to be combined, with an application made by that person;

the amount is nil; and

(iv) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$3 140
2	Additional applicant charge for an applicant who is at least 18	$1 570
3	Additional applicant charge for an applicant who is less than 18	$790

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

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(c) Application by a person claiming to be a member of the family unit of a person (the ***first applicant***) who is an applicant for a Child (Residence) (Class BT) visa:
  (i) if subparagraph (ii) does not apply—may be made at the same time and place as, and combined with, the application made by the first applicant; and
  (ii) if the first applicant's application for a Child (Residence) (Class BT) visa is supported by a letter of support from a State or Territory government welfare authority—may not be made at the same time and place as, and combined with, the application made by the first applicant.

(d) Application by a person whose application is supported by a letter of support from a State or Territory government welfare authority may be made if the person has not turned 18 at the time the application is made.

(e) For an application made by a person to whom section 48 of the Act applies:
  (i) the applicant:
    (A) has not turned 25; or
    (B) claims to be incapacitated for work due to total or partial loss of bodily or mental functions; and
  (ii) if the applicant is not claiming to be an orphan relative of an Australian citizen, Australian permanent resident or eligible New Zealand citizen, the applicant must provide, at the same time and place as making the application, an approved form 40CH that has been completed and signed by an Australian citizen, Australian permanent resident or eligible New Zealand citizen who claims to be the parent of the applicant; and
  (iii) if the applicant claims to be incapacitated for work due to total or partial loss of bodily or mental functions, the applicant must provide, at the same time and place as making the application, evidence from a medical practitioner that supports the applicant's claim.

(f) An application is not a valid application if:
  (i) the applicant seeks to meet the requirements in subclause 802.213(5) of Schedule 2 by claiming to have been adopted in an overseas country at a particular time; and
  (ii) the country is specified by the Minister in a legislative instrument made for the purposes of this paragraph; and
  (iii) if a period is specified in the instrument in relation to the country—the time referred to in subparagraph (i) is within that period.

(4) Subclasses:
802 (Child)
837 (Orphan Relative)

(5) In this item:

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

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(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.

medical practitioner means a person registered as a medical practitioner under a law of a State or Territory providing for the registration of medical practitioners.

1111 Confirmatory (Residence) (Class AK)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant covered by subitem (2A):

First instalment

Item	Component	Amount
1	Base application charge	$365
2	Additional applicant charge for an applicant who is at least 18	$185
3	Additional applicant charge for an applicant who is less than 18	$95

(ii) for any other applicant, the amount is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who is the holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa	The second instalment of the visa application charge that applied to that visa, less any payment already made towards that instalment

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Second instalment		
Item	**Applicant**	**Amount**
2	Any other applicant	Nil

(2A) This subitem covers the following applicants:

(a) an applicant:

(i) who was granted a Subclass 773 (Border) visa on last arriving in Australia; or

(ii) whose application is combined, or sought to be combined, with an application made by that person;

(b) an applicant whose application is made on the basis that, on 30 June 2016, he or she held any of the following permits granted under the *Immigration Act 1980* (Norfolk Island):

(i) a temporary entry permit;

(ii) a general entry permit;

(iii) an unrestricted entry permit (a ***UEP***);

(c) an applicant whose application is made on the basis that:

(i) on 30 June 2016, the applicant did not hold any of the permits mentioned in paragraph (b); and

(ii) at any time before 30 June 2016, the applicant held a UEP; and

(iii) at that time, the applicant was ordinarily resident in Norfolk Island;

(d) an applicant whose application is made on the basis that:

(i) on or before 30 June 2016, the applicant was born outside Norfolk Island (whether in or outside Australia); and

(ii) on 30 June 2016, the applicant did not hold any of the permits mentioned in paragraph (b); and

(iii) on 30 June 2016, a parent of the applicant, other than an adoptive parent of the applicant, was covered by paragraph (b) or (c); and

(iv) on 30 June 2016, the applicant was a dependent child of the parent;

(e) an applicant whose application is made on the basis that clause 808.311 of Schedule 2 is satisfied in relation to an applicant covered by paragraph (b), (c) or (d) of this subitem.

Note: Paragraph (e) applies to a dependent child of the other applicant born in Australia on or after 1 July 2016. The child's application must be combined with that of the parent.

(3) Other, unless paragraph (2A)(b), (c), (d) or (e) covers the applicant:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Confirmatory (Residence) (Class AK) visa may be made at the same time and place as, and combined with, the application by that person.

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(3A) Other, if paragraph (2A)(b), (c), (d) or (e) covers the applicant:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant may be in or outside Australia, but must not be in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Confirmatory (Residence) (Class AK) visa may be made at the same time and place as, and combined with, the application by that person.

(d) Application by a person is not a valid application if:

(i) the visa held by the person that was most recently in effect is, or was, the subject of a notice under the Act proposing cancellation; and

(ii) the person has not been notified of a decision not to proceed with the cancellation; and

(iii) the visa was not the subject of a decision to cancel the visa under the Act.

(e) Application by a person is not a valid application if:

(i) the visa held by the person that was most recently in effect was the subject of a decision to cancel the visa under the Act (whether or not the decision has come into effect); and

(ii) the decision to cancel the visa has not been set aside by the ART.

(4) Subclasses:

808 (Confirmatory)

1113 National Innovation (Class BX)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 840
2	Additional applicant charge for an applicant who is at least 18	$2 425
3	Additional applicant charge for an applicant who is less than 18	$1 210

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) is an applicant to whom item 1A does not apply	$4 890
1A	Applicant who meets the requirements of subclause 858.321(3), (3A) or (4) of Schedule 2	Nil
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant may be in or outside Australia, but not in immigration clearance.

(ba) Applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

(iv) a Subclass 030 Bridging C visa.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a National Innovation (Class BX) visa may be made at the same time and place as, and combined with, the application by that person.

(d) If the applicant seeks to meet the requirements of subclause 858.212(2) of Schedule 2, application must be accompanied by a completed approved form 1000.

(e) If the applicant seeks to meet the requirements of subclause 858.212(4) of Schedule 2, the Minister must have received advice from:

(i) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or

(ii) the Director-General of Security;

that the applicant has provided specialised assistance to the Australian Government in matters of security.

(3A) An applicant seeking to satisfy the primary criteria must meet the requirements in the table.

Item	**Requirements**
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 858 (National Innovation) visa
2	The applicant must apply for that visa within the period stated in the invitation

(4) Subclasses:

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858 (National Innovation)

1114B Employer Nomination (Permanent) (Class EN)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 770
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the primary criteria for the grant of a Subclass 186 (Employer Nomination Scheme) visa; and (d) to whom item 3 does not apply	$9 800
2	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the secondary criteria for the grant of a Subclass 186 (Employer Nomination Scheme) visa; and (d) to whom item 3 does not apply	$4 890
3	Applicant who is: (a) nominated as a Minister of Religion by a religious institution; or (b) a member of the family unit of an applicant referred to in paragraph (a); or (c) an applicant who meets the requirements of subclause 186.311(3), (4) or (5) of Schedule 2	Nil
4	Any other applicant	Nil

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(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 (Bridging A) visa; or

(iii) a Subclass 020 (Bridging B) visa; or

(iv) a Subclass 030 (Bridging C) visa.

(d) An applicant seeking to satisfy the primary criteria must declare in the application that the position to which the application relates is a position nominated under regulation 5.19.

(da) An applicant seeking to satisfy the primary criteria must declare in the application (the ***primary application***) whether or not either:

(i) the applicant; or

(ii) any person who has made a combined application with the applicant;

has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act.

(e) An application by a person claiming to be a member of the family unit of a person who is an applicant for an Employer Nomination (Permanent) (Class EN) visa may be made at the same time as, and combined with, the application by that person.

(4) Subclasses:

Subclass 186 (Employer Nomination Scheme)

1114C Regional Employer Nomination (Permanent) (Class RN)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 770
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

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Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment		
Item	**Applicant**	**Amount**
1	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the primary criteria for the grant of a Subclass 187 (Regional Sponsored Migration Scheme) visa; and (d) to whom item 3 does not apply	$9 800
2	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the secondary criteria for the grant of a Subclass 187 (Regional Sponsored Migration Scheme) visa; and (d) to whom item 3 does not apply	$4 890
3	Applicant who is: (a) nominated as a Minister of Religion by a religious institution; or (b) a member of the family unit of an applicant referred to in paragraph (a); or (c) an applicant who meets the requirements of subclause 187.311(3), (4) or (5) of Schedule 2	Nil
4	Any other applicant	Nil

(3) Other:

(aa) Subject to subitem (3A), an application by a person seeking to satisfy the primary criteria in a stream must be made before 16 November 2019.

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 (Bridging A) visa; or

(iii) a Subclass 020 (Bridging B) visa; or

(iv) a Subclass 030 (Bridging C) visa.

(d) An applicant seeking to satisfy the primary criteria must declare in the application that the position to which the application relates is a position nominated under regulation 5.19.

(da) An applicant seeking to satisfy the primary criteria must declare in the application (the ***primary application***) whether or not either:

(i) the applicant; or

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(ii) any person who has made a combined application with the applicant;

has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act.

(e) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Regional Employer Nomination (Permanent) (Class RN) visa may be made at the same time as, and combined with, the application by that person.

(3A) Paragraph (3)(aa) does not apply if:

(a) the stream is the Temporary Residence Transition stream; and

(b) the applicant is a transitional 457 worker or transitional 482 worker at the time the application is made.

(4) Subclasses:

Subclass 187 (Regional Sponsored Migration Scheme)

1118A Special Eligibility (Class CB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who is in Australia at the time of application; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$4 665
2	Additional applicant charge for an applicant who is at least 18	$2 330
3	Additional applicant charge for an applicant who is less than 18	$1 165

(ii) for an applicant:

(A) who is outside Australia at the time of application; and

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$4 665
2	Additional applicant charge for an applicant who is at least 18	$2 330
3	Additional applicant charge for an applicant who is less than 18	$1 165

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Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English	$4 890
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) Applicant may be in or outside Australia, but not in immigration clearance.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Special Eligibility (Class CB) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

151 (Former Resident)

1123A Other Family (Migrant) (Class BO)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who appears to the Minister, on the basis of information contained in the application, to be a carer; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$2 115
2	Additional applicant charge for an applicant who is at least 18	$1 060
3	Additional applicant charge for an applicant who is less than 18	$530

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(ii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$5 125
2	Additional applicant charge for an applicant who is at least 18	$2 565
3	Additional applicant charge for an applicant who is less than 18	$1 285

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment		
Item	**Applicant**	**Amount**
1	Applicant: (a) who is a carer; and (b) 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	Nil
2	Any other applicant	$2 065

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) Applicant must be outside Australia.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Other Family (Migrant) (Class BO) visa may be made at the same time and place as, and combined with, the application by that person.

(c) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.

(4) Subclasses:

114 (Aged Dependent Relative)

115 (Remaining Relative)

116 (Carer)

1123B Other Family (Residence) (Class BU)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who appears to the Minister, on the basis of information contained in the application, to be a carer; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$2 115
2	Additional applicant charge for an applicant who is at least 18	$1 060
3	Additional applicant charge for an applicant who is less than 18	$530

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$5 125
2	Additional applicant charge for an applicant who is at least 18	$2 565
3	Additional applicant charge for an applicant who is less than 18	$1 285

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant: (a) who is a carer; and (b) 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	Nil
2	Any other applicant	$2 065

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

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(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Other Family (Residence) (Class BU) visa may be made at the same time and place as, and combined with, the application by that person.

(d) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.

(4) Subclasses:

835 (Remaining Relative)

836 (Carer)

838 (Aged Dependent Relative)

1124 Parent (Migrant) (Class AX)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$5 125
2	Additional applicant charge for an applicant who is at least 18	$2 565
3	Additional applicant charge for an applicant who is less than 18	$1 285

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is $2 065.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aaa) An applicant who is seeking to satisfy the primary criteria set out in clause 103.214 of Schedule 2 for a Subclass 103 (Parent) visa must:

(i) be in Australia, but not in immigration clearance; and

(ii) meet the requirements of subitem (3A).

(aa) An applicant who is seeking to satisfy the secondary criteria set out in clause 103.313 for a Subclass 103 (Parent) visa on the basis that the applicant is the spouse or de facto partner of an applicant mentioned in paragraph (aaa) must:

(i) be in Australia, but not in immigration clearance; and

(ii) meet the requirements of subitem (3A).

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(ab) If the applicant has previously made a valid application for another parent visa:
(i) a decision to grant or to refuse to grant that visa has been made; or
(ii) the application for that visa has been withdrawn.

(ac) The applicant:
(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and
(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Parent (Migrant) (Class AX) visa may be made at the same time and place as, and combined with, the application by that person.

(3A) An applicant meets the requirements of this subitem if:
(a) on 8 May 2018:
(i) the applicant held a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; or
(ii) the last substantive visa held by the applicant was such a visa; and
(b) during the period commencing on 8 May 2018 and ending on the day the application for the parent visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (a)(i).

(4) Subclasses:
103 (Parent)

1124A Aged Parent (Residence) (Class BP)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$5 125
2	Additional applicant charge for an applicant who is at least 18	$2 565
3	Additional applicant charge for an applicant who is less than 18	$1 285

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is $2 065.

(3) Other:

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(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) The applicant must be in Australia, but not in immigration clearance.
(ba) If the applicant has previously made a valid application for another parent visa:
(i) a decision to grant or to refuse to grant that visa has been made; or
(ii) the application for that visa has been withdrawn.
(bb) The applicant:
(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and
(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.
(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Aged Parent (Residence) (Class BP) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
804 (Aged Parent)

1124B Partner (Residence) (Class BS)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant:
(A) who is the holder of a Subclass 445 (Dependent Child) visa; or
(B) whose application is combined, or sought to be combined, with an application made by that person:
the amount is nil; and
(ii) for an applicant:
(A) who is the holder of a transitional (temporary) visa, granted on the basis that the holder satisfied the criteria for grant of an extended eligibility entry permit under the Migration (1989) Regulations; or
(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$545
2	Additional applicant charge for an applicant who is at least 18	$270

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First instalment		
Item	**Component**	**Amount**
3	Additional applicant charge for an applicant who is less than 18	$140

(iii) for an applicant who:

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

(B) entered Australia before 19 December 1989; and

(C) at the time of entry, was engaged to be married to a person who was an Australian citizen or Australian permanent resident; and

(D) has subsequently married that person;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

(iv) for an applicant who:

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

(B) entered Australia on or after 19 December 1989 as the holder of a prospective marriage (code number 300) entry permit granted under the Migration (1989) Regulations, or a Class 300 (prospective marriage) entry permit granted under the Migration (1993) Regulations; and

(C) ceased to hold a substantive visa after marrying the Australian citizen or Australian permanent resident whom the applicant entered Australia to marry;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

(v) for an applicant who:

(A) is the holder of a Prospective Marriage (Temporary) (Class TO) visa; and

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(B) is married to the person who was specified as the applicant's intended spouse in the application for that visa; and

(C) seeks to remain in Australia permanently on the basis of that marriage;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$1 515
2	Additional applicant charge for an applicant who is at least 18	$760
3	Additional applicant charge for an applicant who is less than 18	$380

(va) for an applicant:

(A) who is covered by subitem (2A); or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$1 515
2	Additional applicant charge for an applicant who is at least 18	$760
3	Additional applicant charge for an applicant who is less than 18	$380

(vi) In the case of an applicant who:

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

(B) entered Australia as the holder of a Prospective Marriage (Temporary) (Class TO) visa; and

(C) ceased to hold that visa after marrying the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and

(D) seeks to remain in Australia permanently on the basis of that marriage;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

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(via) for an applicant:

(A) who is covered by subitem (2B); or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$1 920
2	Additional applicant charge for an applicant who is at least 18	$960
3	Additional applicant charge for an applicant who is less than 18	$485

(vii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$9 095
2	Additional applicant charge for an applicant who is at least 18	$4 550
3	Additional applicant charge for an applicant who is less than 18	$2 280

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(2A) An applicant is covered by this subitem if the applicant:

(a) is the holder of a Prospective Marriage (Temporary) (Class TO) visa; and

(b) seeks to satisfy the primary criteria set out in subclause 801.221(6AA) of Schedule 2.

(2B) An applicant is covered by this subitem if the applicant:

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

(b) entered Australia as the holder of a Prospective Marriage (Temporary) (Class TO) visa; and

(c) seeks to satisfy the primary criteria set out in subclause 801.221(6AB) of Schedule 2.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Residence) (Class BS) visa may

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be made at the same time and place as, and combined with, the application by that person.

(d) If the applicant holds a Subclass 820 (Partner) visa or a Subclass 309 (Partner (Provisional)) visa at the time of making the application for the Partner (Residence) (Class BS) visa, the applicant must not have had any of the following visas refused in the 21 days immediately before making the application for the Partner (Residence) (Class BS) visa:

(i) a Subclass 100 (Spouse) visa;
(ii) a Subclass 100 (Partner) visa;
(iii) a Subclass 110 (Interdependency) visa;
(iv) a Subclass 309 (Spouse (Provisional)) visa;
(v) a Subclass 309 (Partner (Provisional)) visa;
(vi) a Subclass 310 (Interdependency (Provisional)) visa;
(vii) a Subclass 801 (Spouse) visa;
(viii) a Subclass 801 (Partner) visa;
(ix) a Subclass 814 (Interdependency) visa;
(x) a Subclass 820 (Spouse) visa;
(xi) a Subclass 820 (Partner) visa;
(xii) a Subclass 826 (Interdependency) visa.

(e) Subject to subitem (3A), if the applicant is a person to whom section 48 of the Act applies, the applicant:

(i) must not have been refused any of the following visas since last entering Australia:
(A) a Subclass 100 (Spouse) visa;
(B) a Subclass 100 (Partner) visa;
(C) a Subclass 110 (Interdependency) visa;
(D) a Subclass 309 (Spouse (Provisional)) visa;
(E) a Subclass 309 (Partner (Provisional)) visa;
(F) a Subclass 310 (Interdependency (Provisional)) visa;
(G) a Subclass 801 (Spouse) visa;
(H) a Subclass 801 (Partner) visa;
(I) a Subclass 814 (Interdependency) visa;
(J) a Subclass 820 (Spouse) visa;
(K) a Subclass 820 (Partner) visa;
(L) a Subclass 826 (Interdependency) visa; and

(ii) must provide, at the same time and place as making the application, the approved form specified by the Minister in a legislative instrument made for this subparagraph under subregulation 2.07(5) that has been completed and signed by an Australian citizen, Australian permanent resident or eligible New Zealand citizen who claims to be the spouse or de facto partner of the applicant (the ***partner***); and

(iii) must provide, at the same time and place as making the application, 2 statutory declarations each of which:

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(A) is made by an Australian citizen, Australian permanent resident or eligible New Zealand citizen who is not the partner; and

(B) declares that the applicant and the partner are in a married relationship or de facto relationship; and

(C) was declared no more than 6 weeks before the day on which the application for the Partner (Residence) (Class BS) visa was made.

(3A) For paragraph (3)(e):

(a) the applicant is taken to have met the requirements of the paragraph if the applicant:

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

(ii) claims to be a dependent child of a person who has met the requirements of paragraph (3)(e); and

(b) if the applicant leaves and re-enters the migration zone while holding a bridging visa, the applicant is taken to have been continuously in the migration zone despite the travel.

(4) Subclasses:

801 (Partner)

1127AA Resolution of Status (Class CD)

Note: Subregulation 2.07AQ(3) sets out other circumstances in which a person is taken to have made a valid application for a Resolution of Status (Class CD) visa.

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(c) The criteria in at least 1 of the items in the table are satisfied.

Item	Criterion 1	Criterion 2	Criterion 3
1	Applicant holds: (a) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or (b) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or (c) a Subclass 695 (Return Pending) visa	Nil	Nil

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Item	Criterion 1	Criterion 2	Criterion 3
2	Applicant held, but no longer holds, a visa of a kind mentioned in criterion 1 of item 1, or a Subclass 785 (Temporary Protection) visa granted before 9 August 2008, and the visa was not cancelled	Applicant: (a) has not left Australia; or (b) while holding a visa that permits re-entry to Australia, has left and re-entered Australia	Applicant does not hold a permanent visa
3	Applicant is a member of the same family unit as a person who: (a) has made a valid application for a Resolution of Status (Class CD) visa as a result of satisfying the criteria in item 1 or 2; or (b) is taken to have made a valid application for a Resolution of Status (Class CD) visa as a result of satisfying the criteria in item 1 or 2 of the table in subregulation 2.07AQ (3).	Applicant: (a) was in Australia on 9 August 2008 and was a member of the same family unit on that date; or (b) was born on or after 9 August 2008	Nil
4	Both of the following apply: (a) the applicant holds a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (b) the applicant first entered Australia before the TPV/SHEV transition day	At the time the application for a Resolution of Status (Class CD) visa is made, the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that has not been finally determined	Nil
4A	All of the following apply: (a) on the TPV/SHEV transition day, the applicant held a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (b) on or after that day, that visa ceased to be in effect (other than because the visa was cancelled); (c) since the applicant was granted that visa, the applicant has not had a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa refused and finally determined	At the time the application for a Resolution of Status (Class CD) visa is made, the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that has not been finally determined	Nil

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Item	Criterion 1	Criterion 2	Criterion 3
5	All of the following apply: (a) on the TPV/SHEV transition day, the applicant did not hold a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (b) at any time before the TPV/SHEV transition day, the applicant held a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; (c) the Subclass 785 (Temporary Protection) visa or Subclass 790 (Safe Haven Enterprise) visa most recently held by the applicant was not cancelled; (d) since the applicant was granted the visa mentioned in paragraph (c), the applicant has not had a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa refused and finally determined	At the time the application for a Resolution of Status (Class CD) visa is made, the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that has not been finally determined	Nil
6	Applicant who: (a) is the child of a person who meets, or has met, the requirements mentioned in item 4, 4A or 5; and (b) was born in Australia	At the time the application for a Resolution of Status (Class CD) visa is made, the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that has not been finally determined	Nil
7	Applicant who: (a) is the child of a holder of a Resolution of Status (Class CD) visa, granted on the basis of an application taken to have been made under regulation 2.08G; and (b) was born in Australia	At the time the application for a Resolution of Status (Class CD) visa is made, the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that has not been finally determined	Nil

Note: For ***member of the same family unit***, see subsection 5(1) of the Act. For ***TPV/SHEV transition day***, see regulation 1.03.

(4) Subclasses:

851 (Resolution of Status)

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1128 Return (Residence) (Class BB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) the base application charge (payable at the time the application is made) is $475; and

(b) the second instalment (payable before grant of visa) is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) The applicant may be in or outside Australia, but not in immigration clearance.

(c) Applicant must not hold a Transitional (Permanent) visa that is taken to have been granted under regulation 9 of the Migration Reform (Transitional Provisions) Regulations.

(d) Application by a person is not a valid application if:

(i) the most recent permanent visa held by the person is, or was, the subject of a notice, under subsection 135(1) of the Act, proposing cancellation; and

(ii) the person has not been notified of a decision not to proceed with the cancellation; and

(iii) the visa was not the subject of a decision to cancel the visa under section 134 of the Act.

(e) Application by a person is not a valid application if:

(i) the most recent permanent visa held by the person was the subject of a decision to cancel the visa under section 134 of the Act (whether or not the decision has come into effect); and

(ii) the decision to cancel the visa has not been set aside by the ART.

(4) Subclasses:

155 (Five Year Resident Return)

157 (Three Month Resident Return)

1129 Partner (Migrant) (Class BC)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who is the holder of a Subclass 445 (Dependent Child) visa; or

(B) whose application is combined, or sought to be combined, with an application made by that person;

the amount is nil; and

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$9 095
2	Additional applicant charge for an applicant who is at least 18	$4 550
3	Additional applicant charge for an applicant who is less than 18	$2 280

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(c) Applicant other than an applicant who is the holder of:

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

(ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant;

must be outside Australia.

(d) Applicant who is the holder of:

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

(ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant;

may be in or outside Australia, but not in immigration clearance.

(e) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Migrant) (Class BC) visa may be made at the same time and place as, and combined with, the application by that person.

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(4) Subclasses:
100 (Partner)

1130 Contributory Parent (Migrant) (Class CA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant:
(A) who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or
(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(ii) for an applicant who:
(A) has been the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and
(B) is the holder of a substituted Subclass 600 visa at the time of application;
or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(iii) for an applicant:
(A) who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
(B) whose application is combined, or sought to be combined, with an application made by that person:

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(iv) for an applicant who:

(A) has been the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and

(B) provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa for the purpose of the application;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$3 140
2	Additional applicant charge for an applicant who is at least 18	$1 570
3	Additional applicant charge for an applicant who is less than 18	$790

(v) for an applicant who:

(A) made a valid application for a Parent (Migrant) (Class AX) visa before 27 June 2003; and

(B) withdrew that application at the same time as making the application for the Contributory Parent (Migrant) (Class CA) visa;

or whose application is combined, or sought to be combined, with an application made by that person, the amount is nil; and

(vi) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$4 895
2	Additional applicant charge for an applicant who is at least 18	$1 650
3	Additional applicant charge for an applicant who is less than 18	$830

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application	$19 420
2	Applicant who: (a) held a Subclass 173 (Contributory Parent (Temporary)) visa; and (b) was the holder of a substituted Subclass 600 visa at the time of application; and (c) is not described in item 3	$19 420
3	Applicant who: (a) held a Subclass 173 (Contributory Parent (Temporary)) visa; and (b) was, at the time of application, the holder of a substituted Subclass 600 visa or the child or step-child of an applicant mentioned in item 2; and (c) is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa, and was less than 18 at the time of application for a Contributory Parent (Temporary) (Class UT) visa	Nil
4	Applicant who: (a) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; and (b) is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa; and (c) was less than 18 at the time of application for a Contributory Parent (Temporary) (Class UT) visa	Nil
5	Applicant who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application	$19 420
6	Applicant: (a) who has held a Subclass 173 (Contributory Parent (Temporary)) visa; and (b) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application	$17 575
7	An applicant who: (a) is a dependent child of an applicant for a Contributory Parent (Migrant) (Class CA) visa; and (b) was less than 18 at the time of application	$2 095
8	Any other applicant	$43 600

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant who is seeking to satisfy the primary criteria set out in clause 143.214 of Schedule 2 for a Subclass 143 (Contributory Parent) visa must:

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(i) be in Australia, but not in immigration clearance; and
(ii) meet the requirements of subitem (3A).

(ba) An applicant who is seeking to satisfy the secondary criteria set out in clause 143.313 for a Subclass 143 (Contributory Parent) visa on the basis that the applicant is the spouse or de facto partner of an applicant mentioned in paragraph (b) must:
(i) be in Australia, but not in immigration clearance; and
(ii) meet the requirements of subitem (3A).

(bb) The applicant:
(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and
(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.

(c) If the applicant (the ***relevant applicant***) makes his or her application on the basis of claiming to be a member of the family unit of a person who is an applicant for a Contributory Parent (Migrant) (Class CA) visa (the ***other applicant***), the relevant applicant's application may be made at the same time and place as, and combined with, the application made by the other applicant.

(d) If the applicant has previously made a valid application for another parent visa:
(i) a decision to grant or refuse to grant that visa has been made; or
(ii) the application for that visa has been withdrawn.

(3A) An applicant meets the requirements of this subitem if:
(a) on 8 May 2018:
(i) the applicant held a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; or
(ii) the last substantive visa held by the applicant was such a visa; and
(b) during the period commencing on 8 May 2018 and ending on the day the application for the parent visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (a)(i).

(4) Subclasses:
143 (Contributory Parent)

(5) In this item, a reference to an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa, means a person who, as the case may be:
(a) currently holds a Subclass 173 (Contributory Parent (Temporary)) visa; or
(b) has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
(c) has held a Subclass 173 (Contributory Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa for the purpose of the application.

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1130A Contributory Aged Parent (Residence) (Class DG)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who:

(A) made a valid application for an Aged Parent (Residence) (Class BP) visa before 1 July 2003; and

(B) withdrew that application at the same time as making the application for the Contributory Aged Parent (Residence) (Class DG) visa;

or whose application is combined, or sought to be combined, with an application made by that person, the amount is nil; and

(ii) for an applicant:

(A) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(iii) for an applicant who:

(A) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and

(B) is the holder of a substituted Subclass 600 visa at the time of application;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(iv) for an applicant:

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(A) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

(v) for an applicant who:

(A) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa, and

(B) provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa for the purpose of the application;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$4 895
2	Additional applicant charge for an applicant who is at least 18	$2 445
3	Additional applicant charge for an applicant who is less than 18	$1 225

(vi) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$4 895
2	Additional applicant charge for an applicant who is at least 18	$2 445
3	Additional applicant charge for an applicant who is less than 18	$1 225

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application	$19 420
2	Applicant who: (a) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and (b) was the holder of a substituted Subclass 600 visa at the time of application; and (c) is not described in item 3	$19 420
3	Applicant who: (a) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and (b) was, at the time of application, the holder of a substituted Subclass 600 visa or the child or step-child of an applicant mentioned in item 2; and (c) is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa, and was less than 18 at the time of application for a Contributory Aged Parent (Temporary) (Class UU) visa	Nil
4	Applicant who: (a) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; and (b) is the child or step-child of an applicant for a Contributory Aged Parent (Residence) (Class DG) visa; and (c) was less than 18 at the time of application for a Contributory Aged Parent (Temporary) (Class UU) visa	Nil
5	Applicant who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application	$19 420
6	Applicant: (a) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and (b) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application	$16 545
7	An applicant who: (a) is a dependent child of an applicant for a Contributory Aged Parent (Residence) (Class DG) visa; and (b) was less than 18 at the time of application	$2 095
8	Any other applicant	$43 600

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(c) If the applicant has previously made a valid application for another parent visa:

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(i) a decision to grant or to refuse to grant that visa has been made; or
(ii) the application for that visa has been withdrawn.

(ca) The applicant:
(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and
(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.

(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Aged Parent (Residence) (Class DG) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
864 (Contributory Aged Parent)

(5) In this item, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa, means a person who, as the case may be:
(a) currently holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
(b) has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
(c) has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa for the purpose of the application.

1131 Territorial Asylum (Residence) (Class BE)

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Other:
(a) Application must be made by or on behalf of the applicant in a manner approved by a Minister.
(aa) At the time when the application is made, there is lodged at the office of Immigration at which, or with the officer of Immigration to whom, the application is made, documentation that:
(i) evidences the grant by a Minister to the applicant of territorial asylum in Australia; and
(ii) was issued by or on behalf of the Commonwealth.
(b) Application must be made in Australia.
(c) Applicant must be in Australia but not in immigration clearance.
(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Territorial Asylum (Residence) (Class BE)

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visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
800 (Territorial Asylum)

1133 Referred Stay (Permanent) (Class DH)

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Subclasses:
852 (Referred Stay (Permanent))

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

1136 Skilled (Residence) (Class VB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant:
(A) who is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
(B) who is the holder of a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
(C) who is the holder of a Subclass 475 (Skilled—Regional Sponsored) visa; or
(D) who is the holder of a Subclass 487 (Skilled—Regional Sponsored) visa; or
(E) who is the holder of a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
(F) who is the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa granted on the basis of a valid application for a Skilled—Independent Regional (Provisional) (Class UX) visa; or
(G) who is the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa granted on the basis of a valid application for a Skilled (Provisional) (Class VC) visa (other than a Subclass 485 (Temporary Graduate) visa); or
(H) who is the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa granted on the basis of a valid application for a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or

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(I) who was the holder of visa mentioned in any of sub-subparagraphs (A) to (H); or

(J) whose application is combined, or sought to be combined, with an application made by a person mentioned in any of sub-subparagraphs (A) to (I):

First instalment

Item	Component	Amount
1	Base application charge	$490
2	Additional applicant charge for an applicant who is at least 18	$245
3	Additional applicant charge for an applicant who is less than 18	$125

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$4 450
2	Additional applicant charge for an applicant who is at least 18	$2 225
3	Additional applicant charge for an applicant who is less than 18	$1 110

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) has not paid a second instalment of visa application charge in relation to the application for the visa, mentioned in paragraph (2)(a), that the applicant holds; and (d) is an applicant to whom item 1A does not apply	$4 890
1A	Applicant who meets the requirements of subclause 887.321(3), (4) or (5) of Schedule 2	Nil
2	Any other applicant	Nil

(3) Other:

(aa) An application by a person seeking to satisfy the primary criteria for the grant of a Subclass 885 (Skilled—Independent) visa or a Subclass 886 (Skilled—Sponsored) visa must be made before 1 January 2013.

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(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant:

(i) if the applicant is the holder of a visa mentioned in any of subparagraphs (7)(a)(i) to (vi) and makes the application during a concession period—may be in or outside Australia but not in immigration clearance; or

(ii) if the applicant was the holder of a visa mentioned in any of subparagraphs (7)(a)(i) to (vi) and makes the application during a concession period—must be outside Australia; or

(iii) if the applicant is seeking to satisfy the secondary criteria and claims to be a member of the family unit of an applicant to whom subparagraph (i) or (ii) applies—may be in or outside Australia but not in immigration clearance; or

(iv) otherwise—must be in Australia but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.

(7) The following requirements must be met:

(a) the applicant:

(i) must be the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(ii) must be the holder of a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or

(iii) must be the holder of a Subclass 475 (Skilled—Regional Sponsored) visa; or

(iv) must be the holder of a Subclass 487 (Skilled—Regional Sponsored) visa; or

(v) must be the holder of a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or

(vi) must be the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa granted on the basis of a valid application for:

(A) a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(B) a Skilled (Provisional) (Class VC) visa (other than a Subclass 485 (Temporary Graduate) visa); or

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

(vii) if the applicant is outside Australia and does not hold a visa mentioned in any of subparagraphs (i) to (vi) of this paragraph—must have:

(A) held a visa mentioned in one of those subparagraphs that expired during a concession period while the holder was outside Australia; and

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(B) made the application outside Australia during the concession period; or

(viii) must be a child who was born outside Australia and a parent of the child must:

(A) be the holder of a visa mentioned in any of subparagraphs (i) to (vi) of this paragraph; or

(B) have held a visa mentioned in any of subparagraphs (i) to (vi) of this paragraph that expired during a concession period;

(b) the applicant seeking to satisfy the primary criteria for the grant of the visa must have been, for a total of at least 2 years before the day on which the application was made, the holder of 1 of the following visas:

(i) a Skilled—Independent Regional (Provisional) (Class UX) visa;

(ii) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;

(iii) a Subclass 475 (Skilled—Regional Sponsored) visa;

(iv) a Subclass 487 (Skilled—Regional Sponsored) visa;

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

that was granted on the basis of satisfying the primary criteria for the grant of that visa, or of being the spouse or de facto partner of the applicant who satisfied the primary criteria for the grant of the visa.

(8) Subclass:

Subclass 887 (Skilled—Regional)

1137 Skilled—Independent (Permanent) (Class SI)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

Points-tested stream

(2) Subitems (3) to (4C) set out the requirements for:

(a) an applicant (a ***primary Points-tested applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 189 (Skilled—Independent) visa in the Points-tested stream; or

(b) an applicant (a ***secondary applicant***) seeking to satisfy the secondary criteria for the grant of a Subclass 189 (Skilled—Independent) visa, whose application is:

(i) combined with the application of a primary Points-tested applicant; or

(ii) sought to be combined with such an application before a decision is made in relation to that application.

Note: A member of the family unit of a primary Points-tested applicant may apply for the grant of a Subclass 189 (Skilled—Independent) visa, seeking to satisfy the secondary criteria. However, the application by the member of the family unit must be made before a decision is made in relation to the application by the primary Points-tested applicant.

(3) Visa application charge—first instalment (payable at the time the application is made):

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First instalment—Visas in the Points-tested stream etc.		
Item	**Component**	**Amount**
1	Base application charge	$4 765
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 195

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(4) Visa application charge—second instalment (payable before grant of visa):

Second instalment—Visas in the Points-tested stream etc.		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) is an applicant to whom item 1A does not apply	$4,885
1A	Applicant who meets the requirements of subclause 189.311(3), (4) or (5) of Schedule 2	Nil
2	Any other applicant	Nil

(4A) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

(iv) a Subclass 030 Bridging C visa.

(d) An application by a secondary applicant may be made at the same time, and combined with, an application by a primary Points-tested applicant.

(4B) A primary Points-tested applicant must meet the further requirements in the table.

Item	Further requirements—Visas in the Points-tested stream
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 189

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Item	Further requirements—Visas in the Points-tested stream
	(Skilled—Independent) visa
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must not have turned 45 at the time of invitation to apply for the visa
4	The applicant must nominate a skilled occupation: (a) that is specified by the Minister, in an instrument under subitem (4C), as a skilled occupation at the time of invitation to apply for the visa; and (b) that is specified in the invitation as the skilled occupation which the applicant may nominate; and (c) for which the applicant declares in the application that the applicant's skills have been assessed as suitable by the relevant assessing authority and that the assessment is not for a Subclass 485 (Temporary Graduate) visa
5	The applicant must not nominate the New Zealand stream

(4C) The Minister may, by legislative instrument, specify skilled occupations for the purposes of item 4 of the table in subitem (4B).

New Zealand stream

(4D) Subitems (4E) to (4G) set out the requirements for:

(a) an applicant (a ***primary NZ applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 189 (Skilled—Independent) visa in the New Zealand stream; or

(b) an applicant (a ***secondary applicant***) seeking to satisfy the secondary criteria for the grant of a Subclass 189 (Skilled—Independent) visa, whose application is:

(i) combined with the application of a primary NZ applicant; or

(ii) sought to be combined with such an application before a decision is made in relation to that application.

Note: A member of the family unit of a primary NZ applicant may apply for the grant of a Subclass 189 (Skilled—Independent) visa, seeking to satisfy the secondary criteria. However, the application by the member of the family unit must be made before a decision is made in relation to the application by the primary NZ applicant.

(4E) Visa application charge—first instalment (payable at the time the application is made):

First instalment—Visas in the New Zealand stream etc.

Item	Component	Amount
1	Base application charge	$850
2	Additional applicant charge for an applicant who is at least 18	$425
3	Additional applicant charge for an applicant who is less than 18	$210

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

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Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(4F) Visa application charge—second instalment (payable before grant of visa):

Second instalment—Visas in the New Zealand stream etc.		
Item	**Applicant**	**Amount**
1	Applicant who satisfies the primary criteria	$3 390
2	Applicant who was at least 18 at the time of the application, and satisfies the secondary criteria	$1 695
3	Applicant who was under 18 at the time of the application, and satisfies the secondary criteria	$850

(4G) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) An application by a primary NZ applicant must be made before 10 December 2022.

(b) The applicant must not nominate the Points-tested stream.

(c) A primary NZ applicant must hold a Subclass 444 (Special Category) visa.

(d) A secondary applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

(iv) a Subclass 030 Bridging C visa.

(e) An application by a secondary applicant may be made at the same time, and combined with, an application by a primary NZ applicant.

Hong Kong stream

(4H) Subitems (4J) to (4M) set out the requirements for:

(a) an applicant (a ***primary HK applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 189 (Skilled—Independent) visa in the Hong Kong stream; or

(b) an applicant (a ***secondary applicant***) seeking to satisfy the secondary criteria for the grant of a Subclass 189 (Skilled—Independent) visa, whose application is:

(i) combined with the application of a primary HK applicant; or

(ii) sought to be combined with such an application before a decision is made in relation to that application.

Note: A member of the family unit of a primary HK applicant may apply for the grant of a Subclass 189 (Skilled—Independent) visa, seeking to satisfy the secondary criteria. However, the application by the member of the family unit must be made before a decision is made in relation to the application by the primary HK applicant.

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(4J) Visa application charge—first instalment (payable at the time the application is made):

First instalment—visas in the Hong Kong stream etc.

Item	Component	Amount
1	Base application charge	$4 765
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 195

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(4K) Visa application charge—second instalment (payable before grant of visa):

Second instalment—visas in the Hong Kong stream etc.

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) is an applicant to whom item 1A does not apply	$4,885
1A	Applicant who meets the requirements of subclause 189.311(3), (4) or (5) of Schedule 2	Nil
2	Any other applicant	Nil

(4L) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(b) An application must be made on or after 5 March 2022.

(c) The applicant may be in or outside Australia, but not in immigration clearance.

(d) The applicant must not nominate the Points-tested stream or the New Zealand stream.

(e) A primary HK applicant:

(i) must hold a Hong Kong passport or a British National (Overseas) passport; and

(ii) must hold a visa to which subitem (4M) applies; and

(iii) must have held that visa for at least 4 years.

(f) An application by a secondary applicant may be made at the same time, and combined with, an application by a primary HK applicant.

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(4M) For the purposes of subparagraph (4L)(e)(ii), this subitem applies to a visa that:

(a) is:

(i) a Subclass 457 (Temporary Work (Skilled)) visa; or

(ii) a Subclass 482 (Temporary Skill Shortage) visa; or

(iii) a Subclass 485 (Temporary Graduate) visa; and

(b) was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and

(c) either:

(i) was granted before 9 July 2020 and does not permit the holder to travel to, enter or remain in Australia after 8 July 2025; or

(ii) was granted on or after 9 July 2020 and permits the holder to travel to, enter and remain in Australia during the period of 5 years starting when the visa came into effect.

Subclasses

(5) Subclasses:

Subclass 189 (Skilled—Independent)

1138 Skilled—Nominated (Permanent) (Class SN)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 770
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) is an applicant to whom item 1A does not apply	$4 885

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Second instalment		
Item	**Applicant**	**Amount**
1A	Applicant who meets the requirements of subclause 190.311(3), (4) or (5) of Schedule 2	Nil
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

(iv) a Subclass 030 Bridging C visa.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled—Nominated (Permanent) (Class SN) visa may be made at the same time as, and combined with, the application by that person.

(4) An applicant seeking to satisfy the primary criteria must meet the requirements in the table.

Item	**Requirements**
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 190 (Skilled—Nominated) visa
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must not have turned 45 at the time of invitation to apply for the visa
4	The applicant must nominate a skilled occupation: (a) that is specified by the Minister in an instrument in writing for this item as a skilled occupation at the time of invitation to apply for the visa; and (b) that is specified in the invitation as the skilled occupation which the applicant may nominate; and (c) for which the applicant declares in the application that the applicant's skills have been assessed as suitable by the relevant assessing authority and that the assessment is not for a Subclass 485 (Temporary Graduate) visa
5	The applicant must be nominated by a State or Territory government agency

(5) Subclasses:

Subclass 190 (Skilled—Nominated)

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1139 Permanent Residence (Skilled Regional) (Class PR)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for:

(A) an applicant (a ***primary Regional Provisional applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Regional Provisional Visas stream; or

(B) an applicant (a ***secondary Regional Provisional applicant***) seeking to satisfy the secondary criteria for the grant of a Subclass 191 (Permanent Residence (Skilled Regional)) visa whose application is combined, or sought to be combined, with an application of a primary Regional Provisional applicant:

First instalment—visas in the Regional Provisional Visas stream etc.

Item	Component	Amount
1	Base application charge	$490
2	Additional applicant charge for an applicant who is at least 18	$245
3	Additional applicant charge for an applicant who is less than 18	$125

(ii) for:

(A) an applicant (a ***primary HK applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Hong Kong (Regional) stream; or

(B) an applicant (a ***secondary HK applicant***) seeking to satisfy the secondary criteria for the grant of a Subclass 191 (Permanent Residence (Skilled Regional)) visa whose application is combined, or sought to be combined, with an application of a primary HK applicant:

First instalment—visas in the Hong Kong (Regional) stream etc.

Item	Component	Amount
1	Base application charge	$4 765
2	Additional applicant charge for an applicant who is at least 18	$2 380
3	Additional applicant charge for an applicant who is less than 18	$1 195

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

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Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Primary HK applicant or secondary HK applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) to whom item 1A does not apply	$4,885
1A	Applicant who meets the requirements of subclause 191.311(3), (4) or (5) of Schedule 2	Nil
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place and in the manner (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(ba) An application by a primary Regional Provisional applicant or a secondary Regional Provisional applicant must be made on or after 16 November 2022.

(bb) An application by a primary HK applicant or a secondary HK applicant:

(i) must be made on or after 5 March 2022; and

(ii) must not nominate the Regional Provisional Visas stream.

(c) A primary Regional Provisional applicant:

(i) must hold a regional provisional visa; and

(ii) must have held that regional provisional visa for at least 3 years.

(ca) A primary HK applicant:

(i) must hold a Hong Kong passport or a British National (Overseas) passport; and

(ii) must hold a visa to which subitem (3A) applies; and

(iii) must have held that visa for at least 3 years.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Permanent Residence (Skilled Regional) (Class PR) visa may be made at the same time as, and combined with, the application by that person.

(3A) For the purposes of subparagraph (3)(ca)(ii), this subitem applies to a visa that:

(a) is:

(i) a Subclass 457 (Temporary Work (Skilled)) visa; or

(ii) a Subclass 482 (Temporary Skill Shortage) visa; or

(iii) a Subclass 485 (Temporary Graduate) visa; and

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(b) was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and

(c) either:

(i) was granted before 9 July 2020 and does not permit the holder to travel to, enter or remain in Australia after 8 July 2025; or

(ii) was granted on or after 9 July 2020 and permits the holder to travel to, enter and remain in Australia during the period of 5 years starting when the visa came into effect.

(4) Subclasses:

191 (Permanent Residence (Skilled Regional))

1140 Pacific Engagement (Class PA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$325
2	Additional applicant charge for an applicant who is at least 18	$80
3	Additional applicant charge for an applicant who is less than 18	$80

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

(iv) a Subclass 030 Bridging C visa.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Subclass 192 (Pacific Engagement) visa

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must be made at the same time as, and combined with, the application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 192 (Pacific Engagement) visa must meet the requirements in the following table.

Requirements for applicants seeking to satisfy primary criteria	
Item	**Requirements**
1	The applicant must be a selected participant in the applicable visa pre-application process
2	At the beginning of the registration open period for that process, the applicant must be aged at least 18 and no more than 45
3	At the time of registration of the applicant as a registered participant in that process, the applicant held a valid passport issued by the country to which that process relates
4	All of the following: (a) the applicant, or a parent of the applicant, was born in a country specified in Schedule 1 to the visa pre-application process determination for that process; (b) the applicant must be a citizen of the country to which that process relates; (c) the applicant must not be a citizen of New Zealand
5	The application must be made on or before the date specified in the notice of selection given to the applicant as the date by which the applicant must make a valid visa application for a Subclass 192 (Pacific Engagement) visa

(5) Subclasses:

Subclass 192 (Pacific Engagement)

(6) In this item:

applicable visa pre-application process, in relation to a person, means a visa pre-application process in relation to a Subclass 192 (Pacific Engagement) visa in which the person was most recently a registered participant.

notice of selection, in relation to a particular visa pre-application process, means the notice of selection given to a selected participant in that process in accordance with the visa pre-application process determination for that process.

registered participant, for a particular visa pre-application process, means a person registered as a participant in that process in accordance with the visa pre-application process determination for that process.

registration open period, for a particular visa pre-application process, means the period during which the process is open for registration in accordance with the visa pre-application process determination for that process.

selected participant, for a particular visa pre-application process, means a person selected as a participant in that process in accordance with the visa pre-application process determination for that process.

Note: The person must be a registered participant in that process: see subsection 46C(2) of the Act.

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visa pre-application process means a visa pre-application process conducted under subsection 46C(1) of the Act.

visa pre-application process determination, in relation to a particular pre-visa application process, means the determination:

(a) made for the purposes of subsection 46C(14) of the Act that applies in relation to that process; and

(b) as in force at the beginning of the registration open period for that process.

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Part 2—Temporary visas (other than bridging visas)

1201 Border (Temporary) (Class TA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) The applicant must be in Australia, but not in immigration clearance, if the applicant is:

(i) a dependent child of a non-citizen; and

(ii) the holder of a Subclass 773 visa.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Border (Temporary) (Class TA) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

773 (Border)

1202A Business Skills (Provisional) (Class UR)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 675
2	Additional applicant charge for an applicant who is at least 18	$2 340
3	Additional applicant charge for an applicant who is less than 18	$1 170

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the primary criteria for the grant of a visa of a subclass included in Business Skills (Provisional) (Class UR)	$9 795
2	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the secondary criteria for the grant of a visa of a subclass included in Business Skills (Provisional) (Class UR)	$4 890
3	Any other applicant	Nil

(3) Other:

(aa) Application by a person seeking to satisfy the primary criteria must be made before 1 July 2012.

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant may be in or outside Australia, but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Provisional) (Class UR) visa may be made at the same time and place as, and combined with, the application by that person.

(d) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 163 (State/Territory Sponsored Business Owner (Provisional)), 164 (State/Territory Sponsored Senior Executive (Provisional)) or 165 (State/ Territory Sponsored Investor (Provisional)) visa:

(i) applicant must be sponsored by an appropriate regional authority; and

(ii) form 949 must be signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

(4) Subclasses:

160 (Business Owner (Provisional))

161 (Senior Executive (Provisional))

162 (Investor (Provisional))

163 (State/Territory Sponsored Business Owner (Provisional))

164 (State/Territory Sponsored Senior Executive (Provisional))

165 (State/Territory Sponsored Investor (Provisional))

1202B Business Skills (Provisional) (Class EB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) seeking to satisfy the primary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream or the Significant Investor Extension stream; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$1 170
2	Additional applicant charge for an applicant who is at least 18	$590
3	Additional applicant charge for an applicant who is less than 18	$295

(ia) for an applicant:

(A) seeking to satisfy the primary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$14 240
2	Additional applicant charge for an applicant who is at least 18	$7 120
3	Additional applicant charge for an applicant who is less than 18	$3 565

(ic) for an applicant:

(A) seeking to satisfy the primary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$6 570
2	Additional applicant charge for an applicant who is at least 18	$3 285
3	Additional applicant charge for an applicant who is less than 18	$1 640

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(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$9 710
2	Additional applicant charge for an applicant who is at least 18	$4 855
3	Additional applicant charge for an applicant who is less than 18	$2 430

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the primary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa; and (d) has not paid a second instalment of the visa application charge in relation to an application for a Subclass 188 (Business Innovation and Investment (Provisional)) visa	$9 795
2	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) satisfies the secondary criteria for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa; and (d) has not paid a second instalment of the visa application charge in relation to an application for a Subclass 188 (Business Innovation and Investment (Provisional)) visa	$4 890
3	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 Bridging A visa; or

(iii) a Subclass 020 Bridging B visa; or

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(iv) a Subclass 030 Bridging C visa.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Provisional) (Class EB) visa may be made at the same time as, and combined with, the application by that person.

(4) An applicant seeking to satisfy the primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream must meet the requirements in the table.

Item	Requirements
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must be nominated by a State or Territory government agency
4	The applicant must make the application before 31 July 2024

Note: The invitation to apply for the visa will identify the stream to which the invitation relates.

(5) An applicant seeking to satisfy the primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream must meet the requirements in the table.

Item	Requirements
1	One of the following paragraphs must be satisfied: (a) the applicant must hold a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream; (b) the applicant must have held, during a concession period, a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream (the ***qualifying visa***) and both the following apply: (i) the qualifying visa was granted before 1 July 2019; (ii) the application is made no more than 3 months after the end of the concession period; (c) the applicant must have held, during a concession period, a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream and both the following apply: (i) the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream that was granted before 1 July 2019; (ii) the application is made no more than 3 months after the end of the concession period
2	The applicant must have held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream for at least 3 years
3	If, at the time of application, the applicant holds or has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream, the applicant must not have held more than one Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation Extension stream

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Item	Requirements
4	The applicant must be nominated by a State or Territory government agency

(6) An applicant seeking to satisfy the primary criteria for a Subclass 188 visa in the Investor stream must meet the requirements in the table.

Item	Requirements
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Investor stream
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must be nominated by a State or Territory government agency
4	The applicant must make the application before 31 July 2024

Note: The invitation to apply for the visa will identify the stream to which the invitation relates.

(6A) An applicant seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor stream must meet the requirements in the table.

Item	Requirements
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must be nominated by a State or Territory government agency or the CEO of Austrade
4	The applicant must make the application before 31 July 2024

Note: The invitation to apply for the visa will identify the stream to which the invitation relates.

(6B) An applicant seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor Extension stream must meet the requirements in the table.

Item	Requirements
1	The applicant must be nominated by a State or Territory government agency or the CEO of Austrade
2	Either: (a) the applicant: (i) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream; and (ii) has held that visa for at least 3 years; or (b) at the time of application, the applicant: (i) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream; and (ii) has not held more than one Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream

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(6D) An applicant seeking to satisfy the primary criteria for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream must meet the requirements in the table.

Item	Requirements
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must be nominated by a State or Territory government agency
4	The applicant must make the application before 31 July 2024

Note: The invitation to apply for the visa will identify the stream to which the invitation relates.

(7) Subclasses:

Subclass 188 (Business Innovation and Investment (Provisional))

1206 Diplomatic (Temporary) (Class TF)

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Other:

(a) Application must be made by or on behalf of the applicant in a manner approved by the Minister.

(b) Application may be made in or outside Australia, but not in immigration clearance.

(c) Applicant must be in Australia to make an application in Australia.

(4) Subclasses:

995 (Diplomatic (Temporary))

1208A Electronic Travel Authority (Class UD)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

Note: See regulation 2.07AB for an alternative to making an application using the approved form.

(2) Visa application charge:

(a) the base application charge (payable at the time the application is made) is nil; and

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

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(b) An applicant must be:
(i) in immigration clearance; or
(ii) outside Australia.
(f) An applicant must hold an ETA-eligible passport.

(4) Subclasses:
Subclass 601 (Electronic Travel Authority)

1211 Extended Eligibility (Temporary) (Class TK)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$3 140
2	Additional applicant charge for an applicant who is at least 18	$1 570
3	Additional applicant charge for an applicant who is less than 18	$790

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(aa) Applicant may be in or outside Australia, but not in immigration clearance.
(ab) Applicant claims to be a dependent child of a person, and the person holds:
(i) a Subclass 309 (Spouse (Provisional)) visa; or
(ii) a Subclass 309 (Partner (Provisional)) visa; or
(iii) a Subclass 310 (Interdependency (Provisional)) visa; or
(iv) a Subclass 445 (Dependent Child) visa; or
(v) a Subclass 820 (Spouse) visa; or
(vi) a Subclass 820 (Partner) visa; or
(vii) a Subclass 826 (Interdependency) visa.
(b) Application by a person claiming to be a dependent child of a person who is an applicant for an Extended Eligibility (Temporary) (Class TK) visa may be made at the same time and place as, and combined with, the application by that person.

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(4) Subclasses:
445 (Dependent Child)

1212B Investor Retirement (Class UY)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$490
2	Additional applicant charge for an applicant who is at least 18	$250
3	Additional applicant charge for an applicant who is less than 18	$120

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is $12 990.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant may be in or outside Australia, but not in immigration clearance.
(c) Application by a person claiming to be the spouse or de facto partner of a person who is an applicant for an Investor Retirement (Class UY) visa may be made at the same time and place as, and combined with, the application by that person.
(d) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 405 visa must:
(i) be sponsored by an appropriate regional authority; and
(ii) provide, with the application, form 1249 signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
(iii) be at least 55 years old, unless:
(A) the applicant is the holder of an Investor Retirement (Class UY) visa; or
(B) the last substantive visa held by the applicant since last entering Australia was an Investor Retirement (Class UY) visa.
(e) Application may be made on or after 1 June 2018 by a person only if:
(i) the person is the holder of an Investor Retirement (Class UY) visa; or

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(ii) the last substantive visa held by the person since last entering Australia was an Investor Retirement (Class UY) visa.

Note: For ***appropriate regional authority***, see regulation 1.03.

(4) Subclasses:
405 (Investor Retirement)

1214A Medical Treatment (Visitor) (Class UB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant who:
(A) is in Australia at the time of application; and
(B) does not apply in the course of acting as a representative for a foreign government;
or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$370
2	Additional applicant charge for an applicant who is at least 18	$185
3	Additional applicant charge for an applicant who is less than 18	$95

(ii) for any other applicant, the amount is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(c) An applicant may be in or outside Australia, but not in immigration clearance.
(d) An application by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.

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(e) An application made in Australia by a person who is not the holder of a substantive visa must be accompanied by the documentation (if any) specified under subitem (3A).

(3A) For the purposes of paragraph (3)(e), the Minister may, by legislative instrument, specify documentation that must accompany an application.

(3B) Without limiting subitem (3A), the Minister may specify under that subitem an approved form, including an approved form completed and signed by a registered medical practitioner.

(4) Subclasses:

Subclass 602 (Medical Treatment)

1214BA New Zealand Citizen Family Relationship (Temporary) (Class UP)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$430
2	Additional applicant charge for an applicant who is at least 18	$220
3	Additional applicant charge for an applicant who is less than 18	$105

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) Applicant may be in or outside Australia, but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a New Zealand Citizen Family Relationship (Temporary) (Class UP) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

461 New Zealand Citizen Family Relationship (Temporary))

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1214C Partner (Temporary) (Class UK)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:

(a) Application must be made at the same time and place as an application for a Partner (Residence) (Class BS) visa.

(b) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(c) Applicant must be in Australia, but not in immigration clearance.

(e) Application by a person claiming to be a member of the family unit of the holder or former holder of a prospective marriage (temporary) visa (as defined in clause 820.111 of Schedule 2) who is an applicant for a Partner (Temporary) visa may be made at the same time and place as, and combined with, the application by that person.

(f) Application by a person claiming to be a dependent child of a person who is an applicant for a Partner (Temporary) (Class UK) visa may be made at the same time and place as, and combined with, the application by that person.

(g) If:

(i) the applicant is the holder of:

(A) a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(B) a Subclass 475 (Skilled—Regional Sponsored) visa; or

(C) a Subclass 487 (Skilled—Regional Sponsored) visa; or

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

(ii) the last substantive visa held by the applicant was:

(A) a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(B) a Subclass 475 (Skilled—Regional Sponsored) visa; or

(C) a Subclass 487 (Skilled—Regional Sponsored) visa; or

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

the applicant must have held that visa for at least 2 years.

(h) If:

(i) the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(ii) the last substantive visa held by the applicant was a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;

the applicant must have held that visa for at least 3 years.

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(4) Subclasses:
820 (Partner)

1215 Prospective Marriage (Temporary) (Class TO)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$9 095
2	Additional applicant charge for an applicant who is at least 18	$4 550
3	Additional applicant charge for an applicant who is less than 18	$2 280

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be outside Australia.
(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Prospective Marriage (Temporary) (Class TO) visa must be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
300 (Prospective Marriage)

1216 Resident Return (Temporary) (Class TP)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$245
2	Additional applicant charge for an applicant who is at least 18	$125
3	Additional applicant charge for an applicant who is less than 18	$60

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other, unless the application is covered by subitem (3A):

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) Applicant must be outside Australia.

(b) Application by a person who is included in the passport of another applicant for a Resident Return (Temporary) (Class TP) visa may be made at the same time and place as, and combined with, the application by that other applicant.

(c) Application by a person is not a valid application if:

(i) the most recent permanent visa held by the person is, or was, the subject of a notice, under subsection 135(1) of the Act, proposing cancellation; and

(ii) the person has not been notified of a decision not to proceed with the cancellation; and

(iii) the visa was not the subject of a decision to cancel the visa under section 134 of the Act.

(d) Application by a person is not a valid application if:

(i) the most recent permanent visa held by the person was the subject of a decision to cancel the visa under section 134 of the Act (whether or not the decision has come into effect); and

(ii) the decision to cancel the visa has not been set aside by the ART.

(3A) This subitem covers applications made on one of the following bases:

(a) that, on 30 June 2016, the applicant held either of the following permits granted under the *Immigration Act 1980* (Norfolk Island):

(i) a temporary entry permit;

(ii) a general entry permit;

(b) that:

(i) on or before 30 June 2016, the applicant was born outside Norfolk Island (whether in or outside Australia); and

(ii) on 30 June 2016, the applicant did not hold either of the permits mentioned in paragraph (a); and

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(iii) on 30 June 2016, a parent of the applicant (other than an adoptive parent) was covered by paragraph (a); and

(iv) on 30 June 2016, the applicant was a dependent child of the parent;

(c) that clause 159.311 of Schedule 2 is satisfied in relation to another applicant whose application is covered by paragraph (a) or (b) of this subitem.

Note: Paragraph (c) applies to a dependent child of the other applicant born in Australia on or after 1 July 2016. The child's application must be combined with that of the parent.

(3B) Other, if the application is covered by subitem (3A):

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant may be in or outside Australia, but must not be in immigration clearance.

(c) Application by a person who is included in the passport of another applicant for a Resident Return (Temporary) (Class TP) visa may be made at the same time and place as, and combined with, the application by that other applicant.

(ca) Application covered by paragraph (3A)(c) may be made at the same time and place as, and combined with, the application made by the other applicant referred to in that paragraph.

(d) Application by a person is not a valid application if:

(i) the visa held by the person that was most recently in effect is, or was, the subject of a notice under the Act proposing cancellation; and

(ii) the person has not been notified of a decision not to proceed with the cancellation; and

(iii) the visa was not the subject of a decision to cancel the visa under the Act.

(e) Application by a person is not a valid application if:

(i) the visa held by the person that was most recently in effect was the subject of a decision to cancel the visa under the Act (whether or not the decision has come into effect); and

(ii) the decision to cancel the visa has not been set aside by the Tribunal.

(4) Subclasses:

159 (Provisional Resident Return)

1217 Retirement (Temporary) (Class TQ)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$485
2	Additional applicant charge for an applicant who is at least 18	$245
3	Additional applicant charge for an applicant who is less than 18	$120

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant may be in or outside Australia, but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.

(d) Application may be made on or after 17 November 2018 by a person only if:

(i) the person is the holder of a Subclass 410 visa; or

(ii) the last substantive visa held by the person since last entering Australia was a Subclass 410 visa.

(4) Subclasses:

410 (Retirement)

1218 Tourist (Class TR)

(1) Form:

(a) If the applicant is:

(i) in Australia; and

(ii) in a class of persons specified by the Minister in an instrument in writing for this subparagraph: 601E.

(b) If the applicant is:

(i) outside Australia; and

(ii) in a class of persons specified by the Minister in an instrument in writing for this subparagraph: 48 (Internet).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who:

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(A) applies in the course of acting as a representative of a foreign government; or

(B) is in a class of persons specified in an instrument in writing for this sub-subparagraph;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

(ii) for any other applicant:

(A) who is in Australia at the time of application; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$315
2	Additional applicant charge for an applicant who is at least 18	$315
3	Additional applicant charge for an applicant who is less than 18	$80

(iii) for any other applicant:

(A) who is outside Australia at the time of application; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$125
2	Additional applicant charge for an applicant who is at least 18	$125
3	Additional applicant charge for an applicant who is less than 18	$35

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) Oral application may be made if, and only if, the applicant:

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(i) is in Australia (but not in immigration clearance); and
(ii) is the holder of:
(A) a Long Stay (Visitor) (Class TN) visa; or
(B) a Short Stay (Visitor) (Class TR) visa; or
(C) a Tourist (Class TR) visa.

(b) Application (not being an oral application) by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
676 (Tourist)

1218AA Visitor (Class TV)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(aa) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(a) Applicant must be outside Australia.
(b) Applicant must hold an eVisitor eligible passport.

(4) Subclasses:
651 (eVisitor)

1219 Special Category (Temporary) (Class TY)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(2) Visa application charge: Nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) An applicant who holds a special purpose visa, or who does not hold a visa, must be:

(i) in immigration clearance outside Australia travelling to Australia on a pre-cleared flight; or

(ii) in immigration clearance in Australia; or

(iii) in Australia after having been immigration cleared.

(ab) An applicant who holds a temporary visa (other than a special purpose visa) must be:

(i) in immigration clearance outside Australia travelling to Australia on a pre-cleared flight; or

(ii) in Australia, but not in immigration clearance.

(b) The applicant must present to an officer or a clearance authority a New Zealand passport held by the applicant that is in force unless:

(i) the application is made using an authorised system; and

(ii) the applicant holds a New Zealand passport that is in force; and

(iii) for the purposes of being immigration cleared, the applicant presents an image of the applicant's face and shoulders by presenting themselves to an authorised system and, as a result, the applicant is satisfactorily identified.

(c) Applicant is not the holder of a permanent visa.

(d) If the application is made using an authorised system, the applicant must answer the health and character questions asked by the authorised system.

(4) Subclasses:

444 (Special Category)

(5) In this item:

authorised system means an automated system that is an authorised system for the purposes of section 32 of the Act.

1220A Partner (Provisional) (Class UF)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(b) Applicant must be outside Australia.

(c) Application must be made at the same time and place as an application for a Partner (Migrant) (Class BC) visa.

(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Provisional) (Class UF) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

309 (Partner (Provisional))

1221 Contributory Parent (Temporary) (Class UT)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who:

(A) made a valid application for a Parent (Migrant) (Class AX) visa before 27 June 2003; and

(B) withdrew that application at the same time as making the application for the Contributory Parent (Temporary) (Class UT) visa;

or whose application is combined, or sought to be combined, with an application made by that person, the amount is nil; and

(ii) for an applicant:

(A) who is a contributory parent newborn child; or

(B) whose application is combined, or sought to be combined, with an application made by that person;

the amount is nil; and

(iii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$3 300
2	Additional applicant charge for an applicant who is at least 18	$1 650
3	Additional applicant charge for an applicant who is less than 18	$830

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was less than 18 at the time of application; and (b) is a dependent child of an applicant for a Contributory Parent (Temporary) (Class UT) visa; and (c) applied during the period that began on 1 July 2013 and ended on 31 August 2013	$1 825
1A	Applicant who: (a) was less than 18 at the time of application; and (b) is a dependent child of an applicant for a Contributory Parent (Temporary) (Class UT) visa; and (c) applied on or after 1 September 2013	$2 095
2	Applicant who is a contributory parent newborn child	Nil
3	Any other applicant	$29 130

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(aa) The applicant:

(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and

(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Parent (Temporary) (Class UT) visa may be made at the same time and place as, and combined with, the application by that person.

(c) If the applicant has previously made a valid application for another parent visa:

(i) a decision to grant or to refuse to grant that visa must have been made; or

(ii) the application for that visa must have been withdrawn.

(4) Subclasses:

173 (Contributory Parent (Temporary))

1221A Contributory Aged Parent (Temporary) (Class UU)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who:

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(A) made a valid application for an Aged Parent (Residence) (Class BP) visa before 1 July 2003; and

(B) withdrew that application at the same time as making the application for the Contributory Aged Parent (Temporary) (Class UU) visa;

or whose application is combined, or sought to be combined, with an application made by that person, the amount is nil; and

(ii) for an applicant:

(A) who is a contributory parent newborn child; or

(B) whose application is combined, or sought to be combined, with an application made by that person:

the amount is nil; and

(iii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$4 895
2	Additional applicant charge for an applicant who is at least 18	$2 445
3	Additional applicant charge for an applicant who is less than 18	$1 225

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was less than 18 at the time of application; and (b) is a dependent child of an applicant for a Contributory Aged Parent (Temporary) (Class UU) visa	$2 095
2	Applicant who is a contributory parent newborn child	Nil
3	Any other applicant	$29 130

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant, other than a contributory parent newborn child, must be in Australia but not in immigration clearance.

(c) If the applicant has previously made a valid application for another parent visa:

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(i) a decision to grant or to refuse to grant that visa must have been made; or

(ii) the application for that visa must have been withdrawn.

(ca) The applicant:

(i) does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa; and

(ii) if the applicant held such a visa—has left Australia since that visa ceased to be in effect.

(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Aged Parent (Temporary) (Class UU) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

884 (Contributory Aged Parent (Temporary))

1222 Student (Temporary) (Class TU)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who is included in a class of persons specified in an instrument under paragraph (5)(a), the amount is nil; and

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$1 600
2	Additional applicant charge for any other applicant who is at least 18	$1 190
3	Additional applicant charge for any other applicant who is less than 18	$390

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

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(c) If the applicant seeks to satisfy the primary criteria for the grant of a Subclass 500 (Student) visa, the application must be accompanied by evidence of the applicant's intended course of study in Australia, or activities related to study in Australia, being evidence that satisfies the requirements specified in an instrument under paragraph (5)(b).

(d) If the applicant seeks to satisfy the primary criteria for the grant of a Subclass 500 (Student) visa and will be under 18 years of age at any time while in Australia, the application must be accompanied by evidence of intended arrangements for the applicant's accommodation, support and general welfare.

(e) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Subclass 500 (Student) visa may be made at the same time and place as, and combined with, the application by that person.

(f) An application by a person claiming to be a member of the family unit of a person who is seeking to satisfy the primary criteria for the grant of a Subclass 590 (Student Guardian) visa must be made at the same time as, and combined with, the application by that person.

(4) If the applicant is in Australia, the applicant must hold a substantive temporary visa (other than a substantive temporary visa specified in an instrument under paragraph (5)(c)), or must satisfy the following paragraphs:

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

(b) the last substantive visa held by the applicant was:

(i) a student visa; or

(ii) a special purpose visa; or

(iii) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse or de facto partner, or a dependent relative, of a diplomatic or consular representative of a foreign country;

(c) the application is made within 28 days after:

(i) the day when that last substantive visa ceased to be in effect; or

(ii) if that last substantive visa was cancelled, and the ART has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—the later of the day when that last substantive visa ceased to be in effect and the day when:

(A) if the ART's decision is given to the applicant orally—the applicant is taken, under subsection 368(7) of the Act, to have been notified of the decision; or

(B) otherwise—the applicant is taken, under section 379C of the Act, to have received the notification of the ART's decision;

(d) the applicant has not previously been granted a visa based on an application made when the applicant did not hold a substantive visa.

(5) The Minister may, by legislative instrument, specify all or any of the following:

(a) classes of persons to whom subparagraph (2)(a)(i) applies;

(b) the requirements that evidence required by paragraph (3)(c) must satisfy;

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(c) substantive temporary visas for the purposes of subitem (4).

(6) Subclasses:
500 (Student)
590 (Student Guardian)

(7) In this item:

course of study has the same meaning as in clause 500.111.

1223B Temporary Safe Haven (Class UJ)

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Subclasses:
449 (Humanitarian Stay (Temporary))

Note: See regulation 2.07AC for how an application for a Temporary Safe Haven (Class UJ) visa is taken to have been validly made.

1223C Temporary (Humanitarian Concern) (Class UO)

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Subclasses:
786 (Temporary (Humanitarian Concern))

Note: See regulation 2.07AC for how an application for a Temporary (Humanitarian Concern) (Class UO) visa is taken to have been validly made.

1224 Transit (Temporary) (Class TX)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be outside Australia.

(4) Subclasses:
771 (Transit)

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1224A Work and Holiday (Temporary) (Class US)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) the base application charge (payable at the time the application is made) is:

(i) for an applicant in a class of persons specified in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5)—nil; or

(ii) in any other case—$650; and

(b) the second instalment (payable before grant of visa) is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(3) Other:

(a) Applicant must hold a valid passport issued by a foreign country specified in an instrument in writing for this paragraph.

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

(aaa) Paragraph (a) does not apply if:

(i) the applicant is in Australia; and

(ii) when entering Australia, the applicant held a valid passport issued by a foreign country specified in an instrument in writing made under paragraph (a); and

(iii) the passport expired after the applicant entered Australia.

(aa) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) If the applicant is not, and has not previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa other than an offshore COVID-19 affected visa, the applicant must:

(i) be outside Australia; and

(ii) not have previously been in Australia as the holder of a Subclass 417 (Working Holiday) visa; and

(iii) unless the applicant is a member of a class of persons specified by the Minister, by an instrument in writing, for this subparagraph—provide evidence that the applicant has the support for the grant of the visa from the government of the foreign country mentioned in paragraph (a).

(c) If the applicant is, or has previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa other than an offshore COVID-19 affected visa:

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(i) the applicant may be in or outside Australia, but not in immigration clearance; and

(ii) if, disregarding any COVID-19 affected visa, the applicant has held only one Subclass 462 (Work and Holiday) visa in Australia—the application must be accompanied by a declaration by the applicant that he or she has carried out specified Subclass 462 work for a total period of at least 3 months as the holder of that visa; and

(iia) if, disregarding any COVID-19 affected visa, the applicant has held 2 Subclass 462 (Work and Holiday) visas in Australia—the application must be accompanied by a declaration by the applicant that:

(A) the applicant has carried out specified Subclass 462 work for a total period of at least 6 months; and

(B) all of that work was carried out while the applicant held the second Subclass 462 (Work and Holiday) visa or while the applicant held a bridging visa that was in effect and was granted on the basis of the application for the second Subclass 462 (Work and Holiday) visa (made at a time when the applicant held the first Subclass 462 (Work and Holiday) visa); and

(C) all of that work was carried out on or after 1 July 2019; and

(iii) disregarding any COVID-19 affected visa, the applicant has not held more than 2 Subclass 462 (Work and Holiday) visas in Australia (including any Subclass 462 (Work and Holiday) visa held by the applicant at the time of application); and

(iv) if the applicant is in Australia, the applicant must hold a substantive visa or have held a substantive visa at any time in the period of 28 days immediately before making the application.

(d) Subparagraphs (c)(ii) and (iia) do not apply if the applicant holds a passport of a kind specified by the Minister in a legislative instrument made for the purposes of this paragraph.

(e) Subparagraphs (c)(ii) and (iia) do not apply if:

(i) the application is made between 5 March 2022 and 31 December 2022; and

(ii) the applicant holds or held an onshore COVID-19 affected visa; and

(iii) the applicant has not been granted a Subclass 462 (Work and Holiday) visa on the basis of another application made on or after 5 March 2022.

(f) Subparagraph (c)(iv) does not apply if:

(i) the application is made between 5 March 2022 and 31 December 2022; and

(ii) the applicant holds a bridging visa.

(3A) If:

(a) the applicant is not, and has not previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa; and

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(b) the applicant holds a valid passport issued by a foreign country specified by the Minister in a legislative instrument made for the purposes of this paragraph;

the requirements of the following table must be met.

Requirements for certain applicants	
Item	**Requirements**
1	The applicant is a selected participant for a visa pre-application process (the ***relevant process***) conducted under subsection 46C(1) of the Act in relation to: (a) a Subclass 462 (Work and Holiday) visa; and (b) the foreign country that issued the valid passport held by the applicant
2	At the time the applicant became a registered participant for the relevant process, the applicant held a valid passport issued by the foreign country to which the relevant process relates
3	The application is made on or before the date specified in the notice given to the applicant after becoming a selected participant for the relevant process as the date by which the applicant must make a valid visa application for a Subclass 462 (Work and Holiday) visa

Note: A determination made under subsection 46C(14) of the Act determines rules that apply in relation to the conduct of the relevant process, including when a person is a registered participant, and a selected participant, for the relevant process. It also provides for the giving of the notice referred to in item 3 of the table.

(4) Subclasses:
462 (Work and Holiday)

1225 Working Holiday (Temporary) (Class TZ)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) the base application charge (payable at the time the application is made) is:
(i) for an applicant in a class of persons specified in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5)—nil; or
(ii) in any other case—$650; and
(b) the second instalment (payable before grant of visa) is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(3) An application must be made at the place, and in the manner, (if any) specified in relation to a class of persons that includes the applicant by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

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(3A) If the applicant is not, and has not previously been, in Australia as the holder of a Subclass 417 (Working Holiday) visa other than an offshore COVID-19 affected visa, the applicant:

(a) is outside Australia; and

(b) holds a working holiday eligible passport.

(3B) If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 (Working Holiday) visa other than an offshore COVID-19 affected visa:

(a) the applicant may be in or outside Australia, but not in immigration clearance; and

(c) if, disregarding any COVID-19 affected visa, the applicant has held only one Subclass 417 (Working Holiday) visa in Australia—the application must be accompanied by a declaration by the applicant that he or she has carried out specified Subclass 417 work for a total period of at least 3 months as the holder of that visa; and

(ca) if, disregarding any COVID-19 affected visa, the applicant has held 2 Subclass 417 (Working Holiday) visas in Australia—the application must be accompanied by a declaration by the applicant that:

(i) the applicant has carried out specified Subclass 417 work for a total period of at least 6 months; and

(ii) all of that work was carried out while the applicant held the second Subclass 417 (Working Holiday) visa or while the applicant held a bridging visa that was in effect and was granted on the basis of the application for the second Subclass 417 (Working Holiday) visa (made at a time when the applicant held the first Subclass 417 (Working Holiday) visa); and

(iii) all of that work was carried out on or after 1 July 2019; and

(d) disregarding any COVID-19 affected visa, the applicant has not held more than 2 Subclass 417 (Working Holiday) visas in Australia (including any Subclass 417 (Working Holiday) visa held by the applicant at the time of application); and

(e) the applicant holds a working holiday eligible passport; and

(f) if the applicant is in Australia, the applicant must:

(i) hold a substantive visa; or

(ii) have held a substantive visa at any time in the period of 28 days immediately before making the application.

(3BA) Paragraphs (3B)(c) and (ca) do not apply if the applicant holds a passport of a kind specified by the Minister in a legislative instrument made for the purposes of this subitem.

(3BB) Paragraphs (3B)(c) and (ca) do not apply if:

(a) the application is made between 5 March 2022 and 31 December 2022; and

(b) the applicant holds or held an onshore COVID-19 affected visa; and

(c) the applicant has not been granted a Subclass 417 (Working Holiday) visa on the basis of another application made on or after 5 March 2022.

(3BC) Paragraph (3B)(e) does not apply if:

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(a) the applicant is in Australia; and
(b) when entering Australia, the applicant held a working holiday eligible passport; and
(c) the passport expired after the applicant entered Australia.

(3BD) Paragraph (3B)(f) does not apply if.
(a) the application is made between 5 March 2022 and 31 December 2022; and
(b) the applicant holds a bridging visa.

(3C) The applicant must not have previously been in Australia as the holder of a Subclass 462 (Work and Holiday) visa.

(4) Subclasses:
417 (Working Holiday)

(5) In this item:

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in an instrument mentioned in subitem (3).

Note: ***Internet application*** is defined in regulation 1.03.

1227 Maritime Crew (Temporary) (Class ZM)

Note: This class of visa relates to a member of the crew of a non-military ship. Those expressions are defined in regulation 1.03.

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge: Nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be outside Australia.
(c) Applicant is not the holder of a permanent visa.
(e) An applicant who seeks to satisfy the secondary criteria for the grant of the visa must claim to be a member of the family unit of:
(i) the holder of a Maritime Crew (Temporary) (Class ZM) visa who has satisfied the primary criteria for the grant of the visa; or
(ii) an applicant who seeks to satisfy, or has satisfied, the primary criteria for the grant of the visa.

(4) Subclasses:
988 (Maritime Crew)

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1228 Skilled (Provisional) (Class VF)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$465
2	Additional applicant charge for an applicant who is at least 18	$230
3	Additional applicant charge for an applicant who is less than 18	$115

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(aa) An application must be made before 1 July 2024.

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(c) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 476 (Skilled—Recognised Graduate) visa must be less than 31.

(d) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.

(4) Subclasses:

Subclass 476 (Skilled—Recognised Graduate)

1229 Skilled (Provisional) (Class VC)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant:

(A) who holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream, the Post-Higher Education Work stream or the Replacement stream, and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream; or

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(B) whose application is combined, or sought to be combined, with an application made by that person:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$765
2	Additional applicant charge for an applicant who is at least 18	$385
3	Additional applicant charge for an applicant who is less than 18	$195

(ii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$1 945
2	Additional applicant charge for an applicant who is at least 18	$975
3	Additional applicant charge for an applicant who is less than 18	$490

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(c) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(f) The following applicants may be in or outside Australia when making their applications, but not in immigration clearance:

(i) an applicant claiming to be a member of the family unit of a person who, having satisfied the primary criteria, holds a Skilled (Provisional) (Class VC) visa;

(iii) an applicant who is applying for a Subclass 485 (Temporary Graduate) visa in the Replacement stream or a Subclass 485 visa as a member of the family unit of an applicant for a Subclass 485 (Temporary Graduate) visa in the Replacement stream.

(g) An applicant to whom paragraph (f) does not apply must be in Australia, but not in immigration clearance, when making his or her application.

(h) An application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.

(j) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must nominate only one stream to which the application relates.

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(k) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Post-Vocational Education Work stream must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing for this paragraph.

(l) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream must hold, or have held, a Student Temporary (Class TU) visa.

(la) An applicant seeking to satisfy the primary criteria for the grant of a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream must:

(i) hold a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or the Post-Higher Education Work stream; or

(ii) hold a Subclass 485 (Temporary Graduate) visa in the Replacement stream and have held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream.

(lb) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Replacement stream must meet the requirements of subitem (5).

(m) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must meet the requirements of subitem (4).

(4) The following requirements must be met:

(a) one of the following subparagraphs must be satisfied by the applicant:

(i) the applicant holds an eligible student visa;

(ia) the applicant is outside Australia when the application is made and the applicant has held an eligible student visa;

(ii) the applicant must:

(A) hold a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for a visa; and

(B) have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application for the Skilled (Provisional) (Class VC) visa is made;

(iii) the applicant must:

(A) hold a substantive visa; and

(B) have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application for the Skilled (Provisional) (Class VC) visa is made;

(iv) if the ART made a decision to set aside and substitute the Minister's decision not to revoke the cancellation of the applicant's eligible student visa—the applicant must:

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(A) if the ART's decision is given to the applicant orally—have been taken, under subsection 368(7) of the Act, to have been notified of the decision not more than 28 days before the day on which the application is made;

(B) otherwise—have been taken, under section 379C of the Act, to have received the notification of the ART's decision not more than 28 days before the day on which the application is made;

(v) the applicant holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or the Post-Higher Education Work stream and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream;

(vi) the applicant holds a Subclass 485 (Temporary Graduate) visa in the Replacement stream and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream;

(vii) the applicant holds a Subclass 485 (Temporary Graduate) visa that was granted on the basis of satisfying the primary criteria for that visa and is applying for a Subclass 485 (Temporary Graduate) visa in the Replacement stream;

(viii) the applicant:

(A) held a Subclass 485 (Temporary Graduate) visa that was granted on the basis of satisfying the primary criteria for that visa; and

(B) either holds a substantive visa or holds a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for a visa; and

(C) is applying for a Subclass 485 (Temporary Graduate) visa in the Replacement stream;

(aa) if the visa applied for were granted, the total number of Subclass 485 (Temporary Graduate) visas held by the applicant, including that visa:

(i) must not be more than 4; and

(ii) must not include more than one Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream, or the Post-Higher Education Work stream, granted on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2;

(b) the applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must be:

(i) if the applicant holds a Hong Kong passport or a British National (Overseas) passport, or has completed a masters degree (research) or a doctoral degree—less than 50 years old; or

(ii) otherwise—35 years old or younger.

(5) The following requirements must be met by an applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Replacement stream:

(a) the applicant must make the application before 1 July 2024;

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(b) the applicant must hold or have held a Subclass 485 (Temporary Graduate) visa (the ***first visa***) that:
  (i) was granted on the basis of satisfying the primary criteria for the first visa; and
  (ii) was granted before 15 December 2021; and
  (iii) was in effect on or after 1 February 2020;
(c) if the applicant was outside Australia when the first visa was granted:
  (i) the applicant must have entered Australia on a day on which the first visa was in effect and that occurred before 15 December 2021; and
  (ii) the applicant must have later departed Australia on a day on which the first visa was in effect and that occurred before 15 December 2021;
(d) if the applicant was in Australia when the first visa was granted—the applicant must have been outside Australia on a day on which the first visa was in effect and that occurred between 1 February 2020 and 14 December 2021;
(e) if any of the following visas held by the applicant have been cancelled:
  (i) a Subclass 485 (Temporary Graduate) visa;
  (ii) a visa granted after the applicant held a Subclass 485 (Temporary Graduate) visa;

  then, either of the following must apply to each cancelled visa:
  (iii) the cancelled visa must have been cancelled on the ground specified in paragraph 2.43(1)(g);
  (iv) the decision to cancel the cancelled visa must have been set aside by the ART.

(10) Subclasses:

Subclass 485 (Temporary Graduate)

(11) In this item:

completed, in relation to a masters degree (research) or a doctoral degree, means having met the academic requirements for its award.

Note: The academic requirements for the award of a masters degree (research) or a doctoral degree do not include the formal conferral of the degree. Therefore, a person can complete such a degree, for the purposes of this definition, before the award is formally conferred.

eligible student visa means a student visa, other than:
(a) a visa granted to a Foreign Affairs student or Defence student; or
(b) a visa granted on the basis of the applicant being a member of the family unit of the holder of a student visa.

1230 Skilled—Regional Sponsored (Provisional) (Class SP)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

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(a) first instalment (payable at the time the application is made):

(i) for an applicant who holds:

(A) a Skilled—Independent Regional (Provisional) (Class UX) visa; or

(B) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or

(C) a Subclass 475 (Skilled—Regional Sponsored) visa; or

(D) a Subclass 487 (Skilled—Regional Sponsored) visa;

or whose application is combined, or sought to be combined, with an application made by that person:

First instalment

Item	Component	Amount
1	Base application charge	$425
2	Additional applicant charge for an applicant who is at least 18	$210
3	Additional applicant charge for an applicant who is less than 18	$105

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$4 770
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English; and (c) has not paid a second instalment of visa application charge in relation to the application for the visa, mentioned in subparagraph (2)(a)(i), that the applicant holds	$4 890
2	Any other applicant	Nil

(3) Other:

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(aa) An application by a person seeking to satisfy the primary criteria in the First Provisional Visa stream must be made before 16 November 2019.

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 (Bridging A) visa; or

(iii) a Subclass 020 (Bridging B) visa; or

(iv) a Subclass 030 (Bridging C) visa.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled—Regional Sponsored (Provisional) (Class SP) visa may be made at the same time as, and combined with, an application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 489 (Skilled—Regional (Provisional)) visa in the First Provisional Visa stream must meet the requirements in the table.

Item	Requirements
1	The applicant must have been invited, in writing, by the Minister to apply for a Subclass 489 (Skilled-Regional (Provisional)) visa in the First Provisional Visa stream
2	The applicant must apply for that visa within the period stated in the invitation
3	The applicant must not have turned 45 at the time of invitation to apply for the visa
4	The applicant must nominate a skilled occupation: (a) that is specified by the Minister in an instrument in writing for this item as a skilled occupation at the time of invitation to apply for the visa; and (b) that is specified in the invitation as the skilled occupation which the applicant may nominate; and (c) for which the applicant declares in the application that the applicant's skills have been assessed as suitable by the relevant assessing authority and that the assessment is not for a Subclass 485 (Temporary Graduate) visa
5	The applicant must: (a) be nominated by a State or Territory government agency; or (b) declare in the application that the applicant is sponsored by a person who: (i) has turned 18; and (ii) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen
6	If the applicant declares in the application that the applicant is sponsored by a person mentioned in paragraph 5(b), the applicant also declares in the application that: (a) the sponsor is usually resident in a designated area of Australia; and (b) the sponsor is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is an applicant for the grant of a Skilled—Regional Sponsored (Provisional) (Class SP) visa), as:

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Item	Requirements
	(i) a parent; or (ii) a child or step-child; or (iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or (iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; or (v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or (vi) a grandparent; or (vii) a first cousin; and
	(c) each person who is an applicant, and claims to be a member of the family unit of the applicant, is sponsored by that person

Note: ***designated area*** is defined in regulation 1.03

(5) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 489 (Skilled—Regional (Provisional)) visa in the Second Provisional Visa stream must meet the requirements in the table.

Item	Requirements
1	The applicant holds one of the following visas: (a) a Skilled—Independent (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.
2	For at least 2 years immediately before the application is made, the applicant must have held one of those visas, granted on the basis of: (a) satisfying the primary criteria for the grant of that visa; or (b) being the spouse or de facto partner of the person who satisfied the primary criteria for the grant of that visa
3	The applicant must not have held more than one of a particular kind of those visas

(6) Subclasses:

Subclass 489 (Skilled—Regional (Provisional))

1231 Temporary Work (Short Stay Specialist) (Class GA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(iii) for an applicant:

(A) who applies in the course of acting as a representative for a foreign government; or

(B) whose application is combined, or sought to be combined, with an application made by that person;

the amount is nil; and

(iv) for an applicant:

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(A) who is in a class of persons specified by the Minister in an instrument in writing for this subparagraph; or

(B) whose application is combined, or sought to be combined, with an application made by that person;

the amount is nil; and

(v) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$415
2	Additional applicant charge for an applicant who is at least 18	$415
3	Additional applicant charge for an applicant who is less than 18	$105

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) An applicant must be outside Australia.

(c) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Temporary Work (Short Stay Specialist) (Class GA) visa may be made at the same time as, and combined with, the application by that person.

(4) Subclasses:

Subclass 400 (Temporary Work (Short Stay Specialist))

1234 Temporary Work (International Relations) (Class GD)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who is in a class of persons specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5), the amount is nil; and

(ii) for an applicant whose application is combined with an application made by a person referred to in subparagraph (i), the amount is nil; and

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(iia) for an applicant for the grant of a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream:

First instalment

Item	Component	Amount
1	Base application charge	$345
2	Additional applicant charge for an applicant who is at least 18	$335
3	Additional applicant charge for an applicant who is less than 18	$80

(iii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$365
2	Additional applicant charge for an applicant who is at least 18	$365
3	Additional applicant charge for an applicant who is less than 18	$95

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Subject to paragraphs (cae) and (cag), an applicant may be in or outside Australia, but not in immigration clearance.

(cae) If:

(i) an applicant is seeking to satisfy the criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream; and

(ii) the applicant does not hold a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream, the Seasonal Worker Program stream or the Pacific Labour Scheme stream when the application is made; and

(iii) if the last substantive visa held by the applicant was a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream, the Seasonal Worker Program stream or the Pacific Labour Scheme stream—that visa expired more than 28 days before the application is made;

the applicant must be outside Australia.

(caf) If an applicant is seeking to satisfy the primary criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia

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Labour Mobility stream, the applicant must meet the requirement in subitem (3E).

(cag) If an applicant is seeking to satisfy the primary criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Mobility Arrangement for Talented Early-professionals Scheme stream, the applicant:

(i) must be outside Australia when the application is made; and

(ii) must meet the requirements in subitem (3F).

(cb) An applicant must not hold a permanent visa.

(cc) If the applicant (the ***secondary applicant***) claims to be a member of the family unit of a person who:

(i) is an applicant for the grant of, or holds, a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Australia Labour Mobility stream; or

(ii) holds a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;

the application by the secondary applicant is supported, in writing, by a Department responsible for administering the scheme known as the Pacific Australia Labour Mobility scheme.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for an Temporary Work (International Relations) (Class GD) visa may be made at the same time and place as, and combined with, an application by that person or any other member of the family unit who claims to be a member of the family unit of the primary applicant.

Note: An applicant for a Temporary Work (International Relations) (Class GD) visa cannot meet the secondary criteria for the grant of the visa if the primary applicant holds a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream (see clause 403.311 of Schedule 2).

(3E) For the purposes of paragraph (3)(caf), an applicant meets the requirement in this subitem if:

(a) the applicant is participating, as a worker, in the scheme known as the Pacific Australia Labour Mobility scheme; and

(b) the applicant specifies in the application a person who has agreed to be the applicant's sponsor in relation to the application and the person is:

(i) a temporary activities sponsor or a person who has applied for approval as a temporary activities sponsor but whose application has not yet been decided; and

(ii) participating, as an employer, in the scheme known as the Pacific Australia Labour Mobility scheme.

(3F) For the purposes of subparagraph (3)(cag)(ii), an applicant meets the requirements in this subitem if:

(a) the applicant is not, and has not previously been, in Australia as the holder of a Subclass 403 (Temporary Work (International Relations)) visa in the Mobility Arrangement for Talented Early-professionals Scheme stream; and

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(b) the applicant holds a valid passport issued by the Republic of India; and
(c) the requirements of the following table are met.

Requirements for certain applicants	
Item	**Requirements**
1	The applicant is a selected participant for a visa pre-application process (the ***relevant process***) conducted in relation to: (a) the Subclass 403 (Temporary Work (International Relations)) visa in the Mobility Arrangement for Talented Early-professionals Scheme stream; and (b) the Republic of India
2	At the beginning of the registration open period for the relevant process, the applicant was at least 18 and no more than 30
3	At the time the applicant became a registered participant for the relevant process, the applicant held a valid passport issued by the Republic of India
4	The applicant: (a) must have graduated from a foreign educational institution specified by the Minister in an instrument in writing for the purposes of this table item; and (b) must have so graduated within 2 years of the beginning of the registration open period for the relevant process
5	The application must be made on or before the date specified in the notice of selection given to the applicant as the date by which the applicant must make a valid visa application for a Subclass 403 (Temporary Work (International Relations)) visa in the Mobility Arrangement for Talented Early-professionals Scheme stream

(4) Subclasses:

Subclass 403 (Temporary Work (International Relations))

(5) In this item:

notice of selection, in relation to a particular visa pre-application process, means the notice of selection given to a selected participant in that process in accordance with the visa pre-application process determination for that process.

registered participant, for a particular visa pre-application process, means a person registered as a participant in that process in accordance with the visa pre-application process determination for that process.

registration open period, for a particular visa pre-application process, means the period during which the process is open for registration in accordance with the visa pre-application process determination for that process.

selected participant, for a particular visa pre-application process, means a person selected as a participant in that process in accordance with the visa pre-application process determination for that process.

Note: The person must be a registered participant in that process: see subsection 46C(2) of the Act.

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visa pre-application process means a visa pre-application process conducted under subsection 46C(1) of the Act.

visa pre-application process determination, in relation to a particular pre-visa application process, means the determination:

(a) made for the purposes of subsection 46C(14) of the Act that applies in relation to that process; and

(b) as in force at the beginning of the registration open period for that process.

1236 Visitor (Class FA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) in relation to an application for a Subclass 600 (Visitor) visa that is not in the Frequent Traveller stream—first instalment (payable at the time the application is made):

(i) for an applicant who is in Australia at the time of application, the base application charge is $490; and

(ii) for an applicant who is outside Australia at the time of application, the base application charge is $195; and

(iii) for an applicant who applies in the course of acting as a representative of a foreign government, the amount is nil; and

(iv) for an applicant in a class of persons specified by the Minister in an instrument in writing for this subparagraph, the amount is nil; and

(aa) in relation to an application for a Subclass 600 (Visitor) visa in the Frequent Traveller stream—first instalment (payable at the time the application is made): the base application charge is $1 435; and

(b) the second instalment (payable before grant of visa) is nil.

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

Tourist stream—additional requirements

(3) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Tourist stream, the requirements in the table must be met.

Requirements

Item	Requirements
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
2	The applicant may be in or outside Australia.

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Requirements	
Item	**Requirements**
3	The applicant may make an oral application for the visa only if the applicant: (a) is in Australia (but not in immigration clearance); and (b) holds: (i) a Subclass 600 (Visitor) visa; or (ii) a Subclass 676 (Tourist) visa

Note: Regulation 2.09 deals with oral applications.

Sponsored Family stream—additional requirements

(4) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Sponsored Family stream, the requirements in the table must be met.

Requirements	
Item	**Requirements**
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
2	The applicant must be outside Australia

Business Visitor stream—additional requirements

(5) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Business Visitor stream, the requirements in the table must be met.

Requirements	
Item	**Requirements**
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
2	The applicant must be outside Australia

Approved Destination Status stream—additional requirements

(6) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Approved Destination Status stream, the requirements in the table must be met.

Requirements	
Item	**Requirements**
1	The applicant must be a citizen of PRC
2	The applicant must be in PRC at the time of application
3	The applicant must be intending to travel to Australia as a member of a tour organised by a travel agent specified by the Minister in an instrument in writing for this item

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Requirements	
Item	**Requirements**
4	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

Frequent Traveller stream—additional requirements

(6A) For an applicant seeking to satisfy the primary criteria for a Subclass 600 (Visitor) visa in the Frequent Traveller stream, the requirements in the table must be met.

Requirements	
Item	**Requirements**
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)
2	The applicant must be: (a) outside Australia; and (b) if a place is specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)—in the specified place
3	The applicant must hold a valid passport of a kind specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

Subclasses

(7) Subclasses:

Subclass 600 (Visitor)

1237 Temporary Activity (Class GG)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant in a class of persons specified by the Minister in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5), the amount is nil; and

(ii) for an applicant whose application is combined with an application made by a person referred to in subparagraph (i), the amount is nil; and

(iii) for an applicant in a class of persons specified by the Minister in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5):

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First instalment		
Item	**Component**	**Amount**
1	Base application charge	$105
2	Additional applicant charge for an applicant who is at least 18	$105
3	Additional applicant charge for an applicant who is less than 18	$30

(iv) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$415
2	Additional applicant charge for an applicant who is at least 18	$415
3	Additional applicant charge for an applicant who is less than 18	$105

(b) the second instalment (payable before grant of visa) is nil.

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and who has combined the application with that applicant's application.

Additional requirements

(3) The requirements in the table must be met.

Requirements	
Item	**Requirements**
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)
2	An applicant: (a) if subitem (5A) applies to the applicant—must be in Australia, but not in immigration clearance; or (b) otherwise—may be in or outside Australia, but not in immigration clearance.
3	If an applicant: (a) is seeking to satisfy the criterion in clause 408.219A of Schedule 2 on the basis of a clause in Subdivision 408.22 of Schedule 2 other than clause 408.228A (workplace justice) or clause 408.229 (Australian Government endorsed events); and (b) either: (i) is in Australia; or (ii) is outside Australia, and states on the application form that the proposed length of stay in Australia exceeds 3 months;

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Requirements	
Item	**Requirements**
	the application must meet the requirement in subitem (4) or (5) of this item
3A	If an applicant is seeking to satisfy the criterion in clause 408.219A of Schedule 2 on the basis that clause 408.228A (workplace justice) of that Schedule applies to the applicant, all of the following must apply: (a) a certificate has been issued in relation to the applicant by a person, body or government entity determined in the instrument made under subitem (5B) of this item; (b) the certificate states that a matter relating to workplace exploitation that is of a kind determined in the instrument made under that subitem applies in relation to the applicant; (c) the certificate has not been revoked or set aside.
4	If an applicant holds a substantive visa, the visa must not be: (a) a permanent visa; or (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or (c) a Subclass 771 (Transit) visa; or (d) a special purpose visa; or (e) a temporary visa specified by the Minister in a legislative instrument made for the purposes of this paragraph under subregulation 2.07(5)
5	If an applicant is in Australia and does not hold a substantive visa: (a) the applicant must have held a substantive visa; and (b) the last substantive visa held by the applicant must not have been: (i) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or (ii) a Subclass 771 (Transit) visa; or (iii) a special purpose visa; and (c) the application must be made: (i) within 28 days after the day when the last substantive visa held by the applicant ceased to be in effect; or (ii) if that last substantive visa was cancelled, and the ART has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—within 28 days after the day when: (A) if the ART's decision is given to the applicant orally—the applicant is taken, under subsection 368(7) of the Act, to have been notified of the decision; or (B) otherwise—the applicant is taken, under section 379C of the Act, to have received the notification of the ART's decision
6	An applicant seeking to satisfy the primary criteria must declare in the application (the ***primary application***) whether or not each of the following: (a) the applicant; (b) any person who has made a combined application with the applicant; has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act

(4) For the purposes of item 3 of the table in subitem (3), an application meets the requirement in this subitem if the application specifies a person who has agreed to be the applicant's sponsor in relation to the application, and the person is:

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(a) a temporary activities sponsor; or
(b) a person who has applied for approval as a temporary activities sponsor, but whose application has not yet been decided.

(5) For the purposes of item 3 of the table in subitem (3), an application lodged on or before 18 May 2017 meets the requirement in this subitem if the application specifies a person who has agreed to be the applicant's sponsor in relation to the application, and the person is:
(a) a long stay activity sponsor; or
(b) a training and research sponsor; or
(c) a special program sponsor; or
(d) an entertainment sponsor; or
(e) a superyacht crew sponsor; or
(f) a person who has applied for approval as a sponsor mentioned in any of paragraphs (a) to (e), but whose application has not yet been decided.

(5A) For the purposes of paragraph (a) of item 2 of the table in subitem (3), this subitem applies to the following applicants:
(a) an applicant (the ***primary applicant***) who is seeking to satisfy the criterion in clause 408.219A of Schedule 2 on the basis that clause 408.228A (workplace justice) of that Schedule applies to the applicant;
(b) an applicant who claims to be a member of the family unit of the primary applicant.

(5B) The Minister may, by legislative instrument, determine the following:
(a) a person, body or government entity for the purposes of paragraph (a) of item 3A of the table in subitem (3);
(b) a kind of matter relating to workplace exploitation for the purposes of paragraph (b) of item 3A of the table in subitem (3).

(6) An application by a person claiming to be a member of the family unit of a person (the ***primary applicant***) who is an applicant for a Temporary Activity (Class GG) visa may be made at the same time and place as, and combined with, an application by the primary applicant or any other member of the family unit who claims to be a member of the family unit of the primary applicant.

(7) Subclasses:

Subclass 408 (Temporary Activity)

(8) In this item:

government entity means:
(a) a Department, agency or authority of the Commonwealth, a State or a Territory; or
(b) a person who holds an office or appointment under a law of the Commonwealth, a State or a Territory.

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1238 Training (Class GF)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$415
2	Additional applicant charge for an applicant who is at least 18	$415
3	Additional applicant charge for an applicant who is less than 18	$105

(b) the second instalment (payable before grant of visa) is nil.

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

Additional requirements

(3) The requirements in the table must be met.

Requirements

Item	Requirements
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)
2	An applicant may be in or outside Australia, but not in immigration clearance
3	An application must specify the person who has agreed to be the applicant's approved sponsor
4	The person specified in an application for the purposes of item 3 must be: (a) a temporary activities sponsor, or a person who has applied for approval as a temporary activities sponsor but whose application has not yet been decided; or (b) for an application lodged on or before 18 May 2017—a professional development sponsor or a training and research sponsor, or a person who has applied for approval as a professional development sponsor or a training and research sponsor but whose application has not yet been decided

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Requirements	
Item	**Requirements**
5	If the person specified in an application for the purposes of item 3 is not a Commonwealth agency: (a) in a case where the person is an approved sponsor of a kind referred to in item 4: (i) the person must have nominated a program of occupational training in relation to the applicant under paragraph 140GB(1)(b) of the Act; and (ii) if a decision in respect of the nomination has been made under subsection 140GB(2) of the Act, the nomination must have been approved under that subsection and the approval must not have ceased under regulation 2.75A; and (iii) the application must identify the nomination; or (b) in a case where the person has applied for approval as a sponsor of a kind referred to in item 4, but the application has not yet been decided: (i) the person must have made a nomination of a program of occupational training in relation to the applicant that would be a nomination under paragraph 140GB(1)(b) of the Act if the person were an approved sponsor of a kind referred to in item 4; and (ii) the application must identify the nomination
6	If an applicant holds a substantive visa, the visa must not be: (a) a permanent visa; or (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or (c) a Subclass 771 (Transit) visa; or (d) a special purpose visa; or (e) a temporary visa specified by the Minister in a legislative instrument made for the purposes of this paragraph under subregulation 2.07(5)
7	If an applicant is in Australia and does not hold a substantive visa: (a) the applicant must have held a substantive visa; and (b) the last substantive visa held by the applicant must not have been: (i) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or (ii) a Subclass 771 (Transit) visa; or (iii) a special purpose visa; and (c) the application must be made: (i) within 28 days after the day when the last substantive visa held by the applicant ceased to be in effect; or (ii) if that last substantive visa was cancelled, and the ART has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation—within 28 days after the day when: (A) if the ART's decision is given to the applicant orally—the applicant is taken, under subsection 368(7) of the Act, to have been notified of the decision; or (B) otherwise—the applicant is taken, under section 379C of the Act, to have received the notification of the ART's decision

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Requirements	
Item	**Requirements**
8	An applicant seeking to satisfy the primary criteria must declare in the application (the ***primary application***) whether or not each of the following: (a) the applicant; (b) any person who has made a combined application with the applicant; has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act

(4) An application by a person claiming to be a member of the family unit of a person (the ***primary applicant***) who is an applicant for a Training (Class GF) visa may be made at the same time and place as, and combined with, an application by that person or any other member of the family unit who claims to be a member of the family unit of the primary applicant.

(5) Subclasses:

Subclass 407 (Training)

1239 Family (Temporary) (Class GH)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made)—the base application charge is $1 180; and

(b) second instalment (payable before grant of the visa):

Second instalment		
Item	**Period of effect**	**Amount**
1	If the date to be specified by the Minister under paragraph 870.511(1)(b) of Schedule 2 in relation to the applicant's visa will not be more than 3 years after the day the visa is granted	$4 715
2	In all other cases	$10 605

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(b) The applicant does not hold a Subclass 870 (Sponsored Parent (Temporary)) visa.

(c) The applicant is at least 18.

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(d) The application specifies the person who is the parent sponsor of the applicant.

(e) Either:

(i) the applicant is outside Australia; or

(ii) the applicant has been permitted by the Minister to apply for a Subclass 870 (Sponsored Parent (Temporary)) visa while in Australia (but not in immigration clearance).

(f) The total period of effect of the Subclass 870 (Sponsored Parent (Temporary)) visas (if any) previously held by the applicant is less than 10 years.

(4) Subclasses:

870 (Sponsored Parent (Temporary))

1240 Temporary Skill Shortage (Class GK)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) subject to subparagraph (iii), for:

(A) an applicant seeking to satisfy the criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream; or

(B) an applicant whose application is combined with an application made by a person mentioned in sub-subparagraph (A); or

(C) an applicant seeking to satisfy the secondary criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa who claims to be a member of the family unit of a person who holds a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream:

First instalment

Item	Component	Amount
1	Base application charge	$1 495
2	Additional applicant charge for an applicant who is at least 18	$1 495
3	Additional applicant charge for an applicant who is less than 18	$375

(ii) subject to subparagraph (iii), for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$3 115

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First instalment		
Item	**Component**	**Amount**
2	Additional applicant charge for an applicant who is at least 18	$3 115
3	Additional applicant charge for an applicant who is less than 18	$780

(iii) for an applicant in a class of persons specified in a legislative instrument made for the purposes of this subparagraph under subregulation 2.07(5), the amount is nil;

(b) the second instalment (payable before grant of visa) is nil.

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(c) An applicant for a Subclass 482 (Temporary Skill Shortage) visa may be in or outside Australia, but not in immigration clearance.

(d) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 (Bridging A) visa; or

(iii) a Subclass 020 (Bridging B) visa; or

(iv) a Subclass 030 (Bridging C) visa.

(e) An application by an applicant who:

(i) seeks to satisfy the secondary criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa; and

(ii) claims to be a member of the family unit of a person who seeks to satisfy the primary criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa (the ***primary applicant***);

may be made at the same time and place as, and combined with, an application by the primary applicant or any other applicant who claims to be a member of the family unit of the primary applicant.

(f) If the applicant seeks to satisfy the primary criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa:

(i) a person must have nominated a proposed occupation (the ***nominated occupation***) in relation to the applicant for a Subclass 482 (Temporary Skill Shortage) visa in a stream; and

(ii) the application must be for a Subclass 482 (Temporary Skill Shortage) visa in the stream for which the nominated occupation was nominated; and

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(iii) the application must identify the nomination; and

(iv) one of the following must apply:

(A) the nomination has been approved under section 140GB of the Act and the approval of the nomination has not ceased under regulation 2.75;

(B) a decision in respect of the nomination has not been made under section 140GB of the Act; and

(v) the person who made the nomination must not be the subject of a bar under section 140M of the Act.

(g) If:

(i) the application is by a person seeking to satisfy the primary criteria for the grant of a Subclass 482 (Temporary Skill Shortage) visa; and

(ii) the nominated occupation in relation to the applicant is specified in a legislative instrument made by the Minister for the purposes of this paragraph; and

(iii) the applicant is in a class of persons specified in the legislative instrument for the occupation;

then:

(iv) an assessing authority specified in the legislative instrument as the assessing authority for the occupation must have assessed the applicant's skills as suitable for the occupation, on the basis of a type of assessment specified in the legislative instrument and within the period specified in the legislative instrument; or

(v) both of the following must apply:

(A) the applicant has made an arrangement with the assessing authority specified in the legislative instrument as the assessing authority for the occupation to assess the applicant's skills, on the basis of a type of assessment specified in the legislative instrument;

(B) the assessing authority has not completed the assessment.

(h) Paragraph (g) does not limit subclause 482.212(3) or (4) of Schedule 2.

(4) Subclasses:

482 (Temporary Skill Shortage)

1241 Skilled Work Regional (Provisional) (Class PS)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 770

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First instalment		
Item	**Component**	**Amount**
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

Second instalment		
Item	**Applicant**	**Amount**
1	Applicant who: (a) was at least 18 at the time of application; and (b) is assessed as not having functional English	$4,890
2	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(b) An applicant may be in or outside Australia, but not in immigration clearance.

(c) An applicant in Australia must hold:

(i) a substantive visa; or

(ii) a Subclass 010 (Bridging A) visa; or

(iii) a Subclass 020 (Bridging B) visa; or

(iv) a Subclass 030 (Bridging C) visa.

(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled Work Regional (Provisional) (Class PS) visa may be made at the same time as, and combined with, an application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 491 (Skilled Work Regional (Provisional)) visa must meet the requirements in the table.

Requirements for applicants seeking to satisfy primary criteria	
Item	**Requirements**
1	The applicant must have been invited, in writing, by the Minister to apply for the visa
2	The applicant must apply for that visa within the period stated in the invitation

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Requirements for applicants seeking to satisfy primary criteria	
Item	**Requirements**
3	The applicant must not have turned 45 at the time of the invitation to apply for the visa
4	The applicant must nominate a skilled occupation: (a) that is specified in an instrument under subitem (5) at the time of the invitation; and (b) that is specified in the invitation as the skilled occupation which the applicant may nominate; and (c) for which the applicant declares in the application that the applicant's skills have been assessed as suitable by the relevant assessing authority for the skilled occupation and that the assessment is not for a Subclass 485 (Temporary Graduate) visa
5	The applicant: (a) is nominated by a State or Territory government agency and that nomination has not been withdrawn; or (b) declares in the application that the applicant is sponsored by a person who: (i) has turned 18; and (ii) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen
6	If the applicant declares in the application that the applicant (the ***primary applicant***) is sponsored by a person (the ***sponsor***) mentioned in paragraph (b) of item 5 of this table, the applicant also declares that: (a) the sponsor is usually resident in a designated regional area; and (b) the sponsor is related to the primary applicant, or the primary applicant's spouse or de facto partner (if the primary applicant's spouse or de facto partner is also an applicant for the grant of a Subclass 491 (Skilled Work (Provisional)) visa), as: (i) a parent; or (ii) a child or step-child; or (iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or (iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; or (v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or (vi) a grandparent; or (vii) a first cousin; and (c) each person who is also an applicant for the grant of a Subclass 491 (Skilled Work (Provisional)) visa, and claims to be a member of the family unit of the primary applicant, is sponsored by the sponsor
7	The applicant declares in the application that each of the following has a genuine intention to live, work and study in a designated regional area: (a) the applicant; (b) each person who is also an applicant for the grant of a Subclass 491 (Skilled Work Regional (Provisional)) visa and claims to be a member of the family unit of the applicant

(5) The Minister may, by legislative instrument, specify skilled occupations for the purposes of item 4 of the table in subitem (4).

(6) Subclasses:

491 (Skilled Work Regional (Provisional))

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1242 Skilled Employer Sponsored Regional (Provisional) (Class PE)

(1) Form: The approved form specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$4 770
2	Additional applicant charge for an applicant who is at least 18	$2 385
3	Additional applicant charge for an applicant who is less than 18	$1 190

Note 1: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Note 2: Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa):

Second instalment

Item	Applicant	Amount
1	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and (d) to whom item 3 does not apply	$9,800
2	Applicant: (a) who was at least 18 at the time of application; and (b) who is assessed as not having functional English; and (c) who satisfies the secondary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; and (d) to whom item 3 does not apply	$4,890
3	Applicant who: (a) satisfies the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa on the basis of a nomination of the occupation of Minister of Religion; or (b) is a member of the family unit of an applicant referred to in paragraph (a)	Nil
4	Any other applicant	Nil

(3) Other:

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(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5).
(b) An applicant may be in or outside Australia, but not in immigration clearance.
(c) An applicant in Australia must hold:
(i) a substantive visa; or
(ii) a Subclass 010 (Bridging A) visa; or
(iii) a Subclass 020 (Bridging B) visa; or
(iv) a Subclass 030 (Bridging C) visa.
(d) An application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa may be made at the same time as, and combined with, an application by that person.

(4) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa must meet the requirements in the table.

Requirements for applicants seeking to satisfy primary criteria

Item	Requirements
1	A person must have nominated a proposed occupation (the ***nominated occupation***) in relation to the applicant for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in a stream
2	The application must be for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the stream for which the nominated occupation was nominated
3	The application must identify the nomination
4	One of the following must apply: (a) the nomination has been approved under section 140GB of the Act and the approval of the nomination has not ceased under regulation 2.75B; (b) a decision in respect of the nomination has not been made under section 140GB of the Act
5	The person who made the nomination must not be the subject of a bar under section 140M of the Act
6	The applicant must declare in the application (the ***primary application***) whether or not either: (a) the applicant; or (b) any person who has made a combined application with the applicant; has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act

(5) Subject to subitem (6), an applicant seeking to satisfy the primary criteria for the grant of a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream must declare in the application that:

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(a) the applicant's skills have been assessed as suitable by the person or body specified by the Minister under subclause 494.224(6) of Schedule 2 as the assessing authority for the nominated occupation; and

(b) the assessment is not for a Subclass 485 (Temporary Graduate) visa.

(6) Subitem (5) does not apply in circumstances specified by the Minister in a legislative instrument made for the purposes of this subitem under subregulation 2.07(5).

(7) Subclasses:

494 (Skilled Employer Sponsored Regional (Provisional))

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Part 3—Bridging visas

1301 Bridging A (Class WA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(c) Either:

(i) the applicant has made a valid application for a substantive visa that has not been finally determined; or

(ii) application has been made, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application, and the judicial review proceedings (including proceedings on appeal, if any) have not been completed.

(d) Applicant must:

(i) hold a substantive visa; or

(ii) hold a Bridging A (Class WA) or Bridging B (Class WB) visa and have held a substantive visa when he or she made the substantive visa application; or

(iii) have held a substantive visa when he or she made the substantive visa application referred to in paragraph (c); or

(iv) have previously held a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the substantive visa referred to in paragraph (c).

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(e) If the last substantive visa held by the applicant was cancelled:
(i) the decision to cancel that visa has been set aside by the ART; or
(ii) if that visa was cancelled under section 137J of the Act:
(A) the cancellation has been revoked; or
(B) a decision not to revoke the cancellation has been set aside by the ART.
(f) Applicant is not in immigration detention or criminal detention.
(g) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging A (Class WA) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
010 (Bridging A)

Note 1: The Minister must grant a Bridging A (Class WA) visa in the circumstances set out in regulation 2.21A.

Note 2: Regulation 2.07A sets out the circumstances in which an application for a substantive visa on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1302 Bridging B (Class WB)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$185
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be in Australia but not in immigration clearance.
(ba) Applicant must be a person who is immigration cleared.

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(bb) Applicant must not be:
(i) the holder of a Subclass 785 (Temporary Protection) visa, including a Subclass 785 (Temporary Protection) visa granted before 2 December 2013; or
(ii) a person whose last substantive visa was a Subclass 785 (Temporary Protection) visa, including a Subclass 785 (Temporary Protection) visa granted before 2 December 2013; or
(iii) the holder of a Subclass 790 (Safe Haven Enterprise) visa; or
(iv) a person whose last substantive visa was a Subclass 790 (Safe Haven Enterprise) visa.
(c) Applicant is not in immigration detention or criminal detention.
(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging B (Class WB) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:
020 (Bridging B)

1303 Bridging C (Class WC)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be in Australia but not in immigration clearance.
(c) Either:

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(i) the applicant has made a valid application for a substantive visa that has not been finally determined; or

(ii) both of the following apply:

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

(B) the applicant held a Bridging C (Class WC) visa granted on the basis of the applicant's substantive visa application.

(ca) Applicant must be:

(i) a person who is immigration cleared; or

(ii) an eligible non-citizen referred to in subregulation 2.20(6).

(d) Applicant:

(i) was not the holder of a substantive visa when he or she made the substantive visa application referred to in paragraph (c); and

(ii) does not hold a Bridging E (Class WE) visa; and

(iii) has not held a Bridging E (Class WE) visa since he or she last held a substantive visa.

(e) Applicant is not in immigration detention or in criminal detention and has not escaped from either immigration detention or criminal detention.

(f) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging C (Class WC) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

030 (Bridging C)

Note: Regulation 2.07A sets out the circumstances in which an application for a substantive visa made on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1304 Bridging D (Class WD)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

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Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(ba) Applicant must be:

(i) a person who is immigration cleared; or

(ii) an eligible non-citizen referred to in subregulation 2.20(6).

(c) Applicant is not in immigration detention or criminal detention.

(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging D (Class WD) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

040 (Bridging (Prospective Applicant))

041 (Bridging (Non-applicant))

1305 Bridging E (Class WE)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

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(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(ba) Applicant must be an eligible non-citizen within the meaning of section 72 of the Act.

(c) If applicant is in immigration detention, an officer appointed under subregulation 2.10A(2) as a detention review officer for the State or Territory in which the applicant is detained has been informed of the application.

(d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging E (Class WE) visa may be made at the same time and place as, and combined with, the application by that person.

(e) If the applicant has applied at the same time and on the same form for a substantive visa, the application for the substantive visa is valid.

(f) The applicant has not previously held a Bridging E (Class WE) visa that has been cancelled by reason of a failure to comply with condition 8564 or 8566.

(g) The applicant has not previously held a visa that has been cancelled on a ground specified in paragraph 2.43(1)(p) or (q).

(4) Subclasses:

050 (Bridging (General))

051 (Bridging (Protection Visa Applicant))

Note: Regulation 2.07A sets out the circumstances in which an application for a substantive visa made on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1306 Bridging F (Class WF)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

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Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia but not in immigration clearance.

(c) One of the following subparagraphs applies in relation to the applicant:

(ia) an assistance notice has been issued in relation to the applicant, and the notice has not been revoked;

(i) the applicant does not hold a visa and has not held a Bridging F (Class WF) visa since he or she last entered Australia;

(ii) the applicant:

(A) does not hold a visa; and

(B) has held one Bridging F (Class WF) visa since last entering Australia; and

(C) has not held another visa since holding that visa;

(iii) the applicant holds a Bridging F (Class WF) visa, which is the first Bridging F (Class WF) visa held since he or she last entered Australia.

(d) Either:

(i) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, that the applicant has been identified as a suspected victim of human trafficking, slavery or slavery-like practices; or

(ii) the applicant is a member of the immediate family of a person who an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, has been identified as a suspected victim of human trafficking, slavery or slavery-like practices.

Note: ***Member of the immediate family*** is defined in regulation 1.12AA.

(e) An officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, that suitable arrangements have been made for the care, safety and welfare of the applicant for the proposed period of the visa.

(f) If the applicant is in immigration detention, the authorised officer to whom notice was given under subregulation 2.10B(2) has been informed of the lodgement of the application.

(g) Application by a person claiming to be a member of the immediate family of a person who is an applicant for a Bridging F (Class WF) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

060 (Bridging F)

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Note: As an alternative to item 1306, an application for a Bridging F (Class WF) visa will be taken to have been validly made by a non-citizen if the application is made in accordance with subregulation 2.20B(2).

1307 Bridging R (Class WR)

(1) Application must be taken to have been made in accordance with subregulation 2.20A(2).

(2) Visa application charge:
  (a) the first instalment (payable at the time the application is made) is nil; and
  (b) the second instalment (payable before grant of visa) is nil.

(3) Subclasses:
  070 (Bridging (Removal Pending))

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Part 4—Protection, Refugee and Humanitarian visas

1401 Protection (Class XA)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

First instalment

Item	Component	Amount
1	Base application charge	$45
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Protection (Class XA) visa may be made at the same time and place as, and combined with, the application by that person.

(d) An application by a person for a Protection (Class XA) visa is valid only if the person:

(i) does not hold, and has not ever held, a Subclass 785 (Temporary Protection) visa, including such a visa granted before 2 December 2013; and

(ia) does not hold, and has not ever held, a Safe Haven Enterprise (Class XE) visa; and

(ii) does not hold, and has not ever held, a Temporary Safe Haven (Class UJ) visa; and

(iii) does not hold, and has not ever held, a Temporary (Humanitarian Concern) (Class UO) visa; and

(iv) held a visa that was in effect on the person's last entry into Australia; and

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(v) is not an unauthorised maritime arrival; and

(vi) was immigration cleared on the person's last entry into Australia.

(3A) If an application for a Protection (Class XA) visa made by a person would (apart from this subitem) be invalid only because subparagraph (3)(d)(iv) is not satisfied, the application is taken to be valid if:

(a) the person was born in the migration zone; and

(b) a parent of the person was an unlawful non-citizen at the time of the person's birth; and

(c) the parent was a lawful non-citizen at the last time before the person's birth when the parent entered the migration zone.

(4) Subclasses:

866 (Protection)

1402 Refugee and Humanitarian (Class XB)

Note: Subregulation 2.07AM(3) sets out requirements for the making of applications by persons who are mentioned in subregulation 2.07AM(5).

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant whose application includes a proposal by an approved proposing organisation described in Part 202 of Schedule 2:

First instalment

Item	Component	Amount
1	Base application charge	$550
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-Internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) second instalment (payable before grant of visa):

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Second instalment		
Item	**Applicant**	**Amount**
1	Applicant: (a) whose application includes a proposal by an approved proposing organisation described in Part 202 of Schedule 2; and (b) who satisfies the primary criteria for the grant of the visa	$7 270
2	Applicant: (a) whose application includes a proposal by an approved proposing organisation described in Part 202 of Schedule 2; and (b) who satisfies the secondary criteria for the grant of the visa	Nil
3	Any other applicant	Nil

(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be outside Australia unless the applicant is covered by subitem (3B).

(ba) Applicant must not be a person mentioned in subregulation 2.07AM(5).

(c) Application by a person (the ***family member***) claiming to be a member of the family unit of a person (the ***first applicant***) who is an applicant for a Refugee and Humanitarian (Class XB) visa:

(i) if subparagraph (ii) does not apply—may be made at the same time and place as, and combined with, the application by the first applicant; or

(ii) if the first applicant is covered by subitem (3B) and the family member is not covered by subitem (3B)—may not be made at the same time and place as, and combined with, the application by the first applicant.

(3A) In addition to subitem (3), for an application that includes a proposal by an approved proposing organisation described in Part 202 of Schedule 2:

(a) the applicant may be a person who made a valid application for a visa, in accordance with form 842, before 1 June 2013 (whether or not the application was accompanied by form 681); and

(b) the application must include form 1417, completed by the approved proposing organisation; and

(c) an application that includes a proposal by an approved proposing organisation must not include form 681.

(3B) An applicant is covered by this subitem if, at the time the application is made, the applicant:

(a) holds a Subclass 449 (Humanitarian Stay (Temporary)) visa; and

(b) is in a class of persons specified by the Minister in a legislative instrument made under subitem (3C).

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(3C) The Minister may, by legislative instrument, specify a class of persons for the purposes of paragraph (3B)(b) if the Minister is satisfied that doing so is appropriate to assist persons residing temporarily in Australia as a result of Australia's response to the humanitarian crisis in Afghanistan in 2021.

(4) Subclasses:

200 (Refugee)
201 (In-country Special Humanitarian)
202 (Global Special Humanitarian)
203 (Emergency Rescue)
204 (Woman at Risk)

1403 Temporary Protection (Class XD)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:

(a) first instalment (payable at the time the application is made):

(i) for an applicant who is in immigration detention and has not been immigration cleared:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

(ii) for any other applicant:

First instalment		
Item	**Component**	**Amount**
1	Base application charge	$45
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

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(3) Other:

(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(b) Applicant must be in Australia.

(ba) Either:

(i) the applicant first entered Australia on or after the TPV/SHEV transition day; or

(ii) the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that, as at the TPV/SHEV transition day:

(A) had not been finally determined; or

(B) was the subject of judicial review proceedings that had not been completed.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Temporary Protection (Class XD) visa may be made at the same time and place as, and combined with, the application by that person.

(d) An application by a person for a Temporary Protection (Class XD) visa is valid only if the person is unable to make a valid application for a Protection (Class XA) visa and:

(i) holds, or has ever held, a Temporary Protection (Class XD) visa or a Subclass 785 (Temporary Protection) visa, including such a visa granted before 2 December 2013; or

(ia) holds, or has ever held, a Safe Haven Enterprise (Class XE) visa; or

(ii) holds, or has ever held, a Temporary Safe Haven (Class UJ) visa; or

(iii) holds, or has ever held, a Temporary (Humanitarian Concern) (Class UO) visa; or

(iv) did not hold a visa that was in effect on the person's last entry into Australia; or

(v) is an unauthorised maritime arrival; or

(vi) was not immigration cleared on the person's last entry into Australia.

(e) Either:

(i) the applicant has not made a valid application for a Safe Haven Enterprise (Class XE) visa (a ***SHEV***); or

(ii) the applicant has made a valid application for a SHEV and the SHEV application has been refused (whether or not it has been finally determined) or withdrawn; or

(iii) a SHEV has been granted to the applicant.

Note: A person to whom subparagraph (ii) applies, whose SHEV application has been refused, is prevented by section 48A of the Act from making the Temporary Protection visa application unless the Minister has made a determination in relation to the person under section 48B of the Act.

(f) The application for the visa was not made at the same time as an application for a SHEV.

Note: ***TPV/SHEV transition day*** is defined in regulation 1.03.

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(4) Subclasses:
785 (Temporary Protection)

1404 Safe Haven Enterprise (Class XE)

(1) Form: The approved form specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).

(2) Visa application charge:
(a) first instalment (payable at the time the application is made):
(i) for an applicant who is in immigration detention and has not been immigration cleared:

First instalment

Item	Component	Amount
1	Base application charge	Nil
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

(ii) for any other applicant:

First instalment

Item	Component	Amount
1	Base application charge	$45
2	Additional applicant charge for an applicant who is at least 18	Nil
3	Additional applicant charge for an applicant who is less than 18	Nil

Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant's application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
(a) An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5).
(b) Applicant must be in Australia.
(ba) Either:
(i) the applicant first entered Australia on or after the TPV/SHEV transition day; or
(ii) the applicant has not made a valid application for a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa that, as at the TPV/SHEV transition day:
(A) had not been finally determined; or

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(B) was the subject of judicial review proceedings that had not been completed.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Safe Haven Enterprise (Class XE) visa may be made at the same time and place as, and combined with, the application by that person.

(d) An application by a person for a Safe Haven Enterprise (Class XE) visa is valid only if the person is unable to make a valid application for a Protection (Class XA) visa and:

(i) holds, or has ever held, a Temporary Protection (Class XD) visa or a Subclass 785 (Temporary Protection) visa, including such a visa granted before 2 December 2013; or

(ii) holds, or has ever held, a Safe Haven Enterprise (Class XE) visa; or

(iii) holds, or has ever held, a Temporary Safe Haven (Class UJ) visa; or

(iv) holds, or has ever held, a Temporary (Humanitarian Concern) (Class UO) visa; or

(v) did not hold a visa that was in effect on the person's last entry into Australia; or

(vi) is an unauthorised maritime arrival; or

(vii) was not immigration cleared on the person's last entry into Australia.

(e) The application includes an indication, in writing, that the applicant, or a member of the same family unit as the applicant who is also an applicant for a Safe Haven Enterprise (Class XE) visa, intends to work or study while accessing minimum social security benefits in a regional area specified under subclause (4).

(f) Either:

(i) the applicant has not made a valid application for a Temporary Protection (Class XD) visa (a ***TPV***); or

(ii) the applicant has made a valid application for a TPV, and the TPV application has been refused (whether or not it has been finally determined) or withdrawn; or

(iii) a TPV has been granted to the applicant; or

(iv) the application for the Safe Haven Enterprise (Class XE) visa is made at the same time as an application for a TPV.

Note 1: A person to whom subparagraph (ii) applies, whose TPV application has been refused, is prevented by section 48A of the Act from making the Safe Haven Enterprise visa application unless the Minister has made a determination in relation to the person under section 48B of the Act.

Note 2: If subparagraph (iv) applies, the TPV application will be invalid: see paragraph 1403(3)(f).

Note 3: ***TPV/SHEV transition day*** is defined in regulation 1.03.

(4) The Minister may, by legislative instrument, specify a regional area for the purposes of these regulations.

Note: See also regulation 2.06AAB (visa applications by holders and certain former holders of safe haven enterprise visas).

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(5) Subclasses:
790 (Safe Haven Enterprise)

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