Migration Regulations 1994

Statutory Rules No. 268, 1994

made under the

Migration Act 1958

Compilation No. 282

Compilation date: 16 December 2025

Includes amendments: F2025L01554

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 16 December 2025 (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. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

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.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

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. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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

Subclass 010—Bridging A

010.1—Interpretation

Note: ***ART*** is defined in subsection 5(1) of the Act. ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non-citizen***, see regulation 2.20. There are no interpretation provisions specific to this Part.

010.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

010.21—Criteria to be satisfied at the time of application

010.211

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

(2) An applicant meets the requirements of this subclause if:
- (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
- (b) that application has not been finally determined; and
- (c) he or she held a substantive visa at the time that application was made; and
- (d) either:
  - (i) he or she has applied for a bridging visa in respect of that application; or
  - (ii) a bridging visa can be granted in respect of that application under regulation 2.21B.

(3) An applicant meets the requirements of this subclause if:
- (a) the applicant:
  - (i) has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
  - (ii) held a substantive visa when he or she made the application; and
- (aa) that application was refused; and
- (b) either:
  - (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
  - (ii) the applicant:
    - (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

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

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

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

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

(a) the applicant:

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

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

(B) is subject to conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8115, 8547, 8607 or 8608; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) that application was refused; and

(c) either:

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

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(ii) the applicant:

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

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

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

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

010.22—Criteria to be satisfied at the time of decision

010.221

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

010.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

010.4—Circumstances applicable to grant

010.411

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

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

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

010.5—When visa is in effect

010.511

(1) In the case of a visa granted to a non-citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

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

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

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

(ii) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) does not apply in relation to the decision—35 days after the Minister makes the decision; or

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(iiaa) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) applies in relation to the decision—the time the Minister makes the decision; or

(iia) if the substantive visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(iii) if the substantive visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or

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

(v) if the holder withdraws his or her application for a substantive visa or an application to the ART—35 days after that withdrawal; or

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

(vii) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or

(viii) if the ART remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration.

(1A) This subclause applies in relation to a decision to refuse to grant the non-citizen a substantive visa if:

(a) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003;

(ii) the non-citizen did not satisfy paragraph (b) of that criterion; or

(b) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003A;

(ii) the non-citizen did not satisfy that criterion.

(2) For the purposes of subparagraphs (1)(b)(ii), (iia), (iii) and (vii), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and

(b) irrespective of the validity of the decision.

010.513

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

(a) coming into effect:

(i) on grant; or

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

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

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

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

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

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

(c) if a court remits a matter to which the judicial review proceedings relate to the ART, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 010.511(1)(b).

010.514

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

(a) coming into effect:

(i) on grant; or

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

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

010.6—Conditions

010.611

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

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

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

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

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

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

Nil.

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

(a) applies for a protection visa; and

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

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

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

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Clause 010.611

(3A) In the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211(2) or (3) on the basis of a valid application for a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1: condition 8501.

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

(a) a Business Skills—Business Talent (Permanent) (Class EA) visa; or
(b) a Business Skills (Provisional) (Class EB) visa; or
(c) a Business Skills (Permanent) (Class EC) visa; or
(d) an Employer Nomination (Permanent) (Class EN) visa; or
(da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or
(db) a Skilled Work Regional (Provisional) (Class PS) visa; or
(e) a Regional Employer Nomination (Permanent) (Class RN) visa; or
(f) a Skilled—Independent (Permanent) (Class SI) visa; or
(g) a Skilled—Nominated (Permanent) (Class SN) visa; or
(h) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
(i) a Skilled (Residence) (Class VB) visa;

nil.

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

(a) making a valid application for a Subclass 457 (Temporary Work (Skilled)) visa; and
(b) holding a Subclass 457 visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

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

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

(a) making a valid application for a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 482 (Skills in Demand) visa; and
(b) holding a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa or a Subclass 482 (Temporary Skill Shortage) visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

the following conditions:

(c) if the first visa was subject to condition 8107—condition 8107;
(d) if the first visa was subject to condition 8501—condition 8501;
(e) if the first visa was subject to condition 8607—condition 8607.

(3E) In the case of a visa granted to a person:

(a) who meets the requirements of subclause 010.211(2) or (3) on the basis of making a valid application for a Subclass 103 (Parent) visa or a Subclass 143 (Contributory Parent) visa; and

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(b) who is seeking to meet the requirements of subclause 103.214(2), 103.313(2), 143.214(2) or 143.313(2);

the following conditions:

(c) condition 8104—but only if the condition applied to the most recent substantive visa held by the person;

(d) condition 8303—but only if the condition applied to the most recent substantive visa held by the person;

(e) condition 8501.

(4) In any other case: whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8115, 8539, 8547, 8549, 8607 and 8608 applies to:

(a) the visa held by the holder:

(i) at the time of application; or

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

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

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Subclass 020—Bridging B

020.1—Interpretation

Note: ***ART*** is defined in subsection 5(1) of the Act. ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non-citizen***, see regulation 2.20. There are no interpretation provisions specific to this Part.

020.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

020.21—Criteria to be satisfied at the time of application

020.211

The applicant is the holder of:

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

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

020.212

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

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

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

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

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

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

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

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

(b) that application was refused; and

(c) either:

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

(ii) the applicant:

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

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

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

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

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

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

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

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

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

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

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

(b) that application was refused; and

(c) either:

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

(ii) the applicant:

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

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

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

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

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

020.213

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

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020.22—Criteria to be satisfied at the time of decision

020.221

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

020.223

The applicant satisfies public interest criterion 4021.

020.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

020.4—Circumstances applicable to grant

020.411

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

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

020.5—When visa is in effect

020.511

(1) In the case of a visa granted to a non-citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

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

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

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

(ii) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) does not apply in relation to the decision—35 days after the Minister makes the decision; or

(iiaa) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) applies in relation to the decision—the time the Minister makes the decision; or

(iia) if the substantive visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(iii) if the substantive visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal

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(other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or

(iv) if the holder withdraws his or her application for a substantive visa or an application to the ART—35 days after that withdrawal; or

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

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

(vii) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or

(viii) if the ART remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration; and

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

(1A) This subclause applies in relation to a decision to refuse to grant the non-citizen a substantive visa if:

(a) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003;

(ii) the non-citizen did not satisfy paragraph (b) of that criterion; or

(b) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003A;

(ii) the non-citizen did not satisfy that criterion.

(2) For the purposes of subparagraphs (1)(b)(ii), (iia), (iii) and (vii), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and

(b) irrespective of the validity of the decision.

020.512

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

(a) coming into effect:

(i) on grant; or

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

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

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

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

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

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

(ba) if a court remits a matter to which the judicial review proceedings relate to the ART, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 020.511(1)(b); and

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

020.513

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

(a) coming into effect:

(i) on grant; or

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

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

020.6—Conditions

020.611

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

(a) an applicant for a protection visa who:

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

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

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

Nil.

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

(a) applies for a protection visa; and

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

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

(3) In the case of a visa granted to a person who meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229(4) of Schedule 1: condition 8501.

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(4) In the case of a visa granted to a non-citizen who meets the requirements of subclause 020.212(2) or (3) on the basis of a valid application for:
- (a) a Business Skills—Business Talent (Permanent) (Class EA) visa; or
- (b) a Business Skills (Provisional) (Class EB) visa; or
- (c) a Business Skills (Permanent) (Class EC) visa; or
- (d) an Employer Nomination (Permanent) (Class EN) visa; or
- (da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or
- (db) a Skilled Work Regional (Provisional) (Class PS) visa; or
- (e) a Regional Employer Nomination (Permanent) (Class RN) visa; or
- (f) a Skilled—Independent (Permanent) (Class SI) visa; or
- (g) a Skilled—Nominated (Permanent) (Class SN) visa; or
- (h) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
- (i) a Skilled (Residence) (Class VB) visa;

nil.

(4A) In the case of a visa granted to a person on the basis of:
- (a) making a valid application for a Subclass 457 (Temporary Work (Skilled)) visa; and
- (b) holding a Subclass 457 visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

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

(4B) In the case of a visa granted to a person on the basis of:
- (a) making a valid application for a Subclass 482 (Temporary Skill Shortage) visa or a Subclass 482 (Skills in Demand) visa; and
- (b) holding a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa or a Subclass 482 (Temporary Skill Shortage) visa (the ***first visa***) at the time of making the application mentioned in paragraph (a);

the following conditions:
- (c) if the first visa was subject to condition 8107—condition 8107;
- (d) if the first visa was subject to condition 8501—condition 8501;
- (e) if the first visa was subject to condition 8607—condition 8607.

(4C) In the case of a visa granted to a person:
- (a) who meets the requirements of subclause 020.212(2) or (3) on the basis of making a valid application for a Subclass 103 (Parent) visa or a Subclass 143 (Contributory Parent) visa; and
- (b) who is seeking to meet the requirements of subclause 103.214(2), 103.313(2), 143.214(2) or 143.313(2);

the following conditions:
- (c) condition 8104—but only if the condition applied to the most recent substantive visa held by the person;
- (d) condition 8303—but only if the condition applied to the most recent substantive visa held by the person;

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(e) condition 8501.

(5) In any other case—whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8115, 8539, 8547, 8549, 8607 and 8608 applies to the bridging visa held by the holder at the time of application.

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Subclass 030—Bridging C

030.1—Interpretation

Note: ***ART*** is defined in subsection 5(1) of the Act. ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non-citizen***, see regulation 2.20. There are no interpretation provisions specific to this Part.

030.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

030.21—Criteria to be satisfied at time of application

030.211

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

030.212

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

(2) An applicant meets the requirements of this subclause if:
  (a) the applicant is not the holder of a substantive visa; and
  (b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
  (ba) either:
    (i) the bridging visa can be granted in respect of that application under regulation 2.21B; or
    (ii) that application was made at the same time, and on the same form, as the bridging visa application; and
  (c) that application has not been finally determined.

(2A) An applicant meets the requirements of this subclause if:
  (a) he or she is not the holder of a substantive visa; and
  (b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
  (c) that application has not been finally determined; and
  (d) he or she has previously been granted a Bridging C (Class WC) visa in respect of that application.

(3) An applicant meets the requirements of this subclause if:
  (a) the applicant holds a Bridging C (Class WC) visa that:
    (i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted to an applicant who was in Australia; and
    (ii) is subject to condition 8101; and

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

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

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

(aa) that application was refused; and

(b) either:

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

(ii) the applicant:

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

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

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

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

030.22—Criteria to be satisfied at the time of decision

030.221

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

030.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

030.4—Circumstances applicable to grant

030.411

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

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

030.5—When visa is in effect

030.511

(1) In the case of a visa granted to a non-citizen who has applied for a substantive visa—bridging visa:

(a) coming into effect:

(i) on grant; or

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

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

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

(ii) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) does not apply in relation to the decision—35 days after the Minister makes the decision; or

(iiaa) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) applies in relation to the decision—the time the Minister makes the decision; or

(iia) if the substantive visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(iii) if the substantive visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or

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

(v) if the holder withdraws his or her application for a substantive visa or an application to the ART—35 days after that withdrawal; or

(vi) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or

(vii) if the ART remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration; or

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

(1A) This subclause applies in relation to a decision to refuse to grant the non-citizen a substantive visa if:

(a) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003;

(ii) the non-citizen did not satisfy paragraph (b) of that criterion; or

(b) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003A;

(ii) the non-citizen did not satisfy that criterion.

(2) For the purposes of subparagraphs (1)(b)(ii), (iia), (iii) and (vi), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and

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(b) irrespective of the validity of the decision.

030.512

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

(a) coming into effect:
  (i) on grant; or
  (ii) when the substantive visa (if any) held by the holder ceases; and
(b) permitting the holder to remain in Australia until:
  (i) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
  (ii) if the holder withdraws his or her application for judicial review—28 days after that withdrawal; or
  (iii) the grant of another bridging visa to the holder in respect of the same application for judicial review; or
  (iv) if the substantive visa (if any) held by the holder is cancelled—that cancellation; and
(c) if a court remits a matter to which the judicial review proceedings relate to the ART, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 030.511(1)(b).

030.513

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

(a) coming into effect:
  (i) on grant; or
  (ii) when the substantive visa (if any) held by the holder ceases; and
(b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

030.6—Conditions

030.611

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

(a) if condition 8303 applies to the Bridging C (Class WC) visa held by the applicant—condition 8303; or
(b) if condition 8501 applies to the Bridging C (Class WC) visa held by the applicant—condition 8501; or
(c) in any other case—nil.

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030.612

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

(a) applies for a protection visa; and

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

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

030.613

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

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

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

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

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

(da) a Skilled Employer Sponsored Regional (Provisional) (Class PE) visa; or

(db) a Skilled Work Regional (Provisional) (Class PS) visa; or

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

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

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

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

nil.

(2) In the case of a visa granted to a person:

(a) on the basis of making a valid application for a Subclass 103 (Parent) visa or a Subclass 143 (Contributory Parent) visa; and

(b) who is seeking to meet the requirements of subclause 103.214(2), 103.313(2), 143.214(2) or 143.313(2);

the following conditions:

(c) conditions 8101 and 8501;

(d) condition 8303—but only if the condition applied to the most recent substantive visa held by the person.

030.614

In any other case, condition 8101.

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Subclass 040—Bridging (Prospective Applicant)

040.1—Interpretation

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

040.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

040.21—Criteria to be satisfied at time of application

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

040.211

The applicant is:

(a) an unlawful non-citizen; or

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

040.213

The Minister is satisfied that the applicant:

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

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

040.214

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

040.22—Criteria to be satisfied at time of decision

040.221

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

040.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

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040.4—Circumstances applicable to grant

040.411

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

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

040.5—When visa is in effect

040.511

Bridging visa coming into effect:

(a) on grant; or

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

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

040.6—Conditions

040.611

Condition 8101.

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Subclass 041—Bridging (Non-applicant)

041.1—Interpretation

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

041.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

041.21—Criteria to be satisfied at time of application

041.211

The applicant is an unlawful non-citizen.

041.212

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

041.213

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

041.22—Criteria to be satisfied at time of decision

041.221

The applicant continues to satisfy the criteria in Subdivision 041.21.

041.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

041.4—Circumstances applicable to grant

041.411

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

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

041.5—When visa is in effect

041.511

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

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

041.6—Conditions

041.611

Conditions 8101 and 8401.

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Subclass 050—Bridging (General)

050.1—Interpretation

Note: ***ART*** is defined in subsection 5(1) of the Act. ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non-citizen***, see regulation 2.20. There are no interpretation provisions specific to this Part.

050.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

050.21—Criteria to be satisfied at time of application

050.211

(1) The applicant is:
  (a) an unlawful non-citizen; or
  (b) the holder of a Bridging E (Class WE) visa; or
  (c) the holder of a Subclass 041 (Bridging (Non-applicant)) visa.

(2) The applicant is not an eligible non-citizen of the kind set out in subregulation 2.20(7), (8), (9), (10), (11), (17), (18) or (19).

050.212

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

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

(3) An applicant meets the requirements of this subclause if:
  (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia and that application has not been finally determined; or
  (b) the Minister is satisfied that the applicant will apply, in Australia, within a period allowed by the Minister for the purpose, for a substantive visa of a kind that can be granted if the applicant is in Australia.

(3A) An applicant meets the requirements of this subclause if:
  (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
  (b) either:
    (i) the applicant has applied for judicial review of a decision to refuse to grant the visa and the judicial proceedings (including any proceedings on appeal) have not been completed; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) paragraph (3A)(b); or

(ii) paragraph (4)(a); or

(iii) paragraph (4)(aa); or

(iv) paragraph (4)(d); and

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

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

(i) paragraph (3A)(a); or

(ii) subclause (4).

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

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

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

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

(ii) has not turned 18.

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

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

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

(b) is a person on whose behalf or for whose benefit a person sues under rule 21.09.1 of the *High Court Rules 2004*.

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

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

(b) either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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(ii) the exercise of the Minister's power under section 351, or repealed section 417, of the Act.

(6) An applicant meets the requirements of this subclause if:
(a) the applicant is the subject of:
(i) a decision in relation to an application made in Australia for a visa; or
(ii) a decision to cancel a visa; and
(b) in relation to the decision mentioned in paragraph (a), the applicant:
(i) is the subject of a decision for which the Minister has the power to substitute a more favourable decision under section 351 of the Act; and
(ii) has made a request to the Minister to substitute a more favourable decision under section 351, or repealed section 417, of the Act; and
(c) the applicant has not previously sought, or been the subject of a request by another person for:
(i) the exercise of the Minister's power under section 351, or repealed section 417, of the Act; or
(ii) a determination under section 48B of the Act.

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

(6A) An applicant meets the requirements of this subclause if:
(a) the applicant holds a Bridging E (Class WE) visa granted on the basis of the applicant meeting the requirements of subclause (6AA); and
(b) the Minister has decided, under section 351 or repealed section 417 of the Act, to substitute a more favourable decision for the decision of the Administrative Appeals Tribunal or the ART but the applicant cannot, for the time being, be granted a substantive visa because of a determination under section 85 of the Act; and
(c) the Minister is satisfied that the applicant has a compelling need to work.

(7) An applicant meets the requirements of this subclause if:
(a) the applicant is in criminal detention; and
(b) no criminal justice stay certificate or criminal justice stay warrant about the applicant is in force.

(8) An applicant meets the requirements of this subclause if:
(a) the applicant holds a Bridging E (Class WE) visa that:
(i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted if the applicant was in Australia; and
(ii) is subject to condition 8101; and

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

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

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

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

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

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

(b) that application was refused; and

(c) either:

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

(ii) the applicant:

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

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

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

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

050.22—Criteria to be satisfied at time of decision

050.221

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

050.222

(1) Unless subclause (2), (3), (4) or (5) applies, the applicant has been interviewed by an officer who is authorised by the Secretary for the purposes of this clause.

(2) This subclause applies if:

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

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

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

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

(3) This subclause applies if:

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

(i) at the time of application; or

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

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

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

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

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

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

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

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

(5) This subclause applies if an officer who is authorised by the Secretary for the purposes of this clause has decided that it is not necessary to interview the applicant.

050.223

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

050.224

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

050.225

If the applicant:

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

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

the applicant satisfies public interest criterion 4022.

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Clause 050.411

050.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

050.4—Circumstances applicable to grant

050.411

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

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

050.5—When visa is in effect

050.511

(1) In the case of a visa (other than a visa granted to a non-citizen to whom subclause 050.222(3) applies, or a visa granted under regulation 2.24A) granted to a non-citizen who has applied for a substantive visa—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until:
    (i) if the Minister's decision in respect of the substantive visa application is to grant a visa—the grant of the visa; or
    (ii) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) does not apply in relation to the decision—35 days after the Minister makes the decision; or
    (iiaa) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) applies in relation to the decision—the time the Minister makes the decision; or
    (iia) if the substantive visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or
    (iii) if the substantive visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or
    (iiia) if the substantive visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act, as in force at the time of the decision, on referral of that refusal under section 473CA of the Act as in force at the time of the referral (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or
    (iv) if the holder withdraws his or her application for a substantive visa or an application to the ART—35 days after that withdrawal; or
    (v) the grant of a further bridging visa to the holder in respect of his or her substantive visa application; or

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(vi) if the Minister decides that the substantive visa application is invalid—35 days after the Minister makes the decision; or

(vii) if the ART or the Immigration Assessment Authority remits the substantive visa application to the Minister for reconsideration—the day worked out in accordance with whichever subparagraph of this paragraph applies in relation to the reconsideration.

(1A) This subclause applies in relation to a decision to refuse to grant the non-citizen a substantive visa if:

(a) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003;

(ii) the non-citizen did not satisfy paragraph (b) of that criterion; or

(b) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003A;

(ii) the non-citizen did not satisfy that criterion.

(2) For the purposes of subparagraphs (1)(b)(ii), (iia), (iii), (iiia) and (vi), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and

(b) irrespective of the validity of the decision.

050.511AA

(1) In the case of a visa granted to a non-citizen under regulation 2.24A in respect of the non-citizen's application for a substantive visa referred to in paragraph 2.24A(1)(a)—bridging visa:

(a) coming into effect on grant; and

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

(i) 35 days after the Minister decided to refuse to grant the substantive visa to the non-citizen; or

(ii) if the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(iii) if the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or

(iv) if the holder withdraws an application to the ART—35 days after that withdrawal; or

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

(vi) if the ART remits the holder's application for the substantive visa, to the Minister, for reconsideration—the day worked out in accordance

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with whichever subparagraph of this paragraph applies in relation to the reconsideration.

(2) For the purposes of subparagraphs (1)(b)(i), (ii) and (iii), the 35 day period begins to run:
  (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
  (b) irrespective of the validity of the decision.

050.511A

In the case of a visa granted to a non-citizen on the basis that the non-citizen is a member of the family unit of a party to judicial review proceedings—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until the bridging visa held by the party to the judicial review proceedings ceases to be in effect.

050.511B

In the case of a visa granted to a non-citizen on the basis that the non-citizen is a person who has applied for a declaration mentioned in paragraph 050.212(4AAA)(a)—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until 28 days after the proceedings for the declaration are completed.

050.511C

(1) In the case of a visa granted to a non-citizen on the basis that the non-citizen has applied for judicial review of a decision under the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212(4AAA)(b)—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until the latest of the following:
    (i) 28 days after the day the judicial review proceedings are completed;
    (ii) if the court remits the matter to the Minister or the ART for reconsideration—35 days after the day the Minister or ART makes a decision on the reconsideration;
    (iii) if the non-citizen withdraws his or her application for judicial review—28 days after the day the application is withdrawn;
    (iv) if the non-citizen is taken to have applied for judicial review under subclause 050.212(4A), and either withdraws from of or is struck out of the representative proceedings for judicial review—28 days after the day the non-citizen withdraws or is struck out; and
  (c) if the court remits the matter to the Minister for reconsideration, and the Minister approves the person becoming an Australian citizen—permitting

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the holder to remain in Australia until the day on which the non-citizen becomes an Australian citizen in accordance with Subdivision B of Division 2 of Part 2 of the *Australian Citizenship Act 2007*.

(2) For the purposes of subparagraph (1)(b)(ii), the 35 day period begins to run:
   (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
   (b) irrespective of the validity of the decision.

050.511D

(1) In the case of a visa granted to a non-citizen on the basis that the non-citizen has applied, or has purported to apply, for merits review of a decision under the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212(4AAA)(b)—bridging visa:
   (a) coming into effect on grant; and
   (b) permitting the holder to remain in Australia until 35 days after the latest of the following:
      (i) if the ART decides that the holder's application for merits review was not made in accordance with the law governing the making of applications to the ART—the day the ART makes the decision;
      (ia) if the ART makes a decision on the holder's application for merits review (other than a decision to remit the application to the Minister for reconsideration)—the day the ART makes the decision;
      (ii) if the ART remits the application to the Minister for reconsideration—the day the Minister makes a decision on the reconsideration;
      (iii) if the non-citizen withdraws his or her application for merits review—the day the application is withdrawn; and
   (c) if the ART remits the matter to the Minister for reconsideration, and the Minister approves the person becoming an Australian citizen—permitting the holder to remain in Australia until the day on which the non-citizen becomes an Australian citizen in accordance with Subdivision B of Division 2 of Part 2 of the *Australian Citizenship Act 2007*.

(2) The 35 day period worked out by reference to subparagraphs (1)(b)(i), (ia) and (ii) begins to run:
   (a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the subparagraph; and
   (b) irrespective of the validity of the decision.

050.511E

In the case of a visa granted to a non-citizen on the basis that the non-citizen is a person to whom subclause 050.212(4AB) applies—bridging visa:
   (a) coming into effect on grant; and
   (b) permitting the holder to remain in Australia until the bridging visa held by the person who meets the requirements of subclause 050.212(4AAA) ceases to be in effect.

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Clause 050.512

050.512

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

(a) coming into effect on grant; and

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

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

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

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

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

(c) if a court remits a matter to which the judicial review proceedings relate to the ART, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 050.511(1)(b) or subclause 050.513(1) or 050.513B(1).

050.513

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

(a) if the ART decides that the holder's application for merits review was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(aa) if the ART makes a decision on the holder's application for merits review—35 days after the ART makes the decision; or

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

(c) if the holder withdraws his or her application for merits review—35 days after that withdrawal.

(2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and

(b) irrespective of the validity of the decision.

050.513A

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

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(a) coming into effect on grant; and
(b) permitting the holder to stay in Australia until:
(i) 14 working days after the day the decision is made on the revocation application; or
(ii) if another bridging visa is granted to the holder in respect of his or her revocation application—the grant of that bridging visa; or
(iii) if the holder withdraws his or her revocation application—14 working days after that withdrawal; and
(c) if the decision on the revocation application is not to revoke the cancellation and the holder applies for merits review of that decision—permitting the holder to remain in Australia in accordance with the relevant paragraph of subclause 050.513B(1).

050.513B

(1) In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222(3) applies) who has applied, or has purported to apply, for merits review of a decision under section 137L of the Act not to revoke the cancellation of a visa—bridging visa coming into effect on grant permitting the holder to stay in Australia until:
(a) if the ART decides that the holder's application for merits review was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or
(aa) if the ART makes a decision on the holder's application for merits review—35 days after the ART makes the decision; or
(b) if another bridging visa is granted to the holder in respect of his or her review application—the grant of that bridging visa; or
(c) if the holder withdraws his or her application for merits review—35 days after that withdrawal.

(2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
(b) irrespective of the validity of the decision.

050.514

(1) In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222(3) applies) to whom subsection 140(1) or (3) of the Act (which deal with cancellation as a result of cancellation of a visa held by another non-citizen) applies, if the other person whose visa was cancelled has applied, or has purported to apply, for review of that cancellation decision—visa coming into effect on grant permitting the holder to remain in Australia until:
(a) if the ART decides that the application for merits review made by the other person whose visa was cancelled was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

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(aa) if the ART makes a decision on the application for merits review made by the other person whose visa was cancelled—35 days after the ART makes the decision; or

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

(c) if the other person whose visa was cancelled withdraws his or her application for merits review—35 days after that withdrawal.

(2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and

(b) irrespective of the validity of the decision.

050.514AA

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

(a) coming into effect on grant; and

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

(i) 14 working days after the day the decision is made on the revocation application; or

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

(iii) if the person whose visa was cancelled under section 137J of the Act withdraws his or her revocation application—14 working days after that withdrawal; and

(c) if the decision on the revocation application is not to revoke the cancellation and the person whose visa was cancelled applies for merits review of that decision—permitting the holder to remain in Australia in accordance with the relevant paragraph of subclause 050.514AB(1).

050.514AB

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

(a) if the ART decides that the application for merits review made by the person whose visa was cancelled under section 137J of the Act was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

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(aa) if the ART makes a decision on the application for merits review made by the person whose visa was cancelled under section 137J of the Act—35 days after the ART makes the decision; or
(b) if another bridging visa is granted to the holder in respect of the review application—the grant of that bridging visa; or
(c) if the person whose visa was cancelled under section 137J of the Act withdraws his or her application for merits review—35 days after that withdrawal.

(2) For the purposes of paragraphs (1)(a) and (aa), the 35 day period begins to run:
(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph; and
(b) irrespective of the validity of the decision.

050.514A

In the case of a visa granted to a non-citizen to whom subclause 050.222(3) applies—bridging visa:
(a) coming into effect on grant; and
(b) permitting the holder to remain in Australia for 5 working days from date of grant.

050.515

(1) In the case of a visa granted, or taken to have been granted, to a non-citizen who is in criminal detention—visa coming into effect on grant and ceasing on:
(a) the non-citizen's unconditional release from criminal detention; or
(b) the non-citizen's release on bail; or
(c) if the non-citizen is in prison:
(i) the non-citizen's completing a sentence of imprisonment; or
(ii) subject to subclause (2), the non-citizen's release on parole; or
(iv) the non-citizen's escaping from prison; or
(ca) subject to subclause (2), in the case of a non-citizen who is subject to an order for periodic detention—the completion of the period of periodic detention imposed by that order; or
(d) the signing of a deportation order against the non-citizen; or
(e) the grant of another visa to the holder; or
(f) if the non-citizen is subject to an order for periodic detention—the non-citizen's breaching a condition of that order.

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

050.516

In the case of a visa that is taken to have been granted by operation of section 75 of the Act (which deals with applications for bridging visas which the Minister

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does not decide within a short period)—visa coming into effect on grant permitting the applicant to remain in Australia for:

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

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

050.517

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

050.6—Conditions

050.611

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

(a) either:

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

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

(b) is not in immigration detention; and

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

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

050.611B

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

(a) condition 8401 must be imposed; and

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

050.612

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

050.612A

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

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

(i) subparagraph 050.212(3A)(b)(i);

(ii) subparagraph 050.212(3A)(b)(ii);

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(iii) paragraph 050.212(4)(a);
(iv) paragraph 050.212(4)(aa);
(v) paragraph 050.212(4)(d);
(vi) subclause 050.212(4AA);
(viia) subclause 050.212(6AA);
(viii) subclause 050.212(9); and

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

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

(2) Condition 8101 must be imposed.

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

050.612B

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

050.613

(1) In the case of a visa (other than a visa to which clause 050.616B applies) granted to an applicant who meets the requirements of subclause 050.212(6A) or (8)—any 1 or more of conditions 8201, 8207, 8401, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

(2) Despite anything in the other provisions of this Division, those provisions do not apply in relation to a visa to which subclause (1) applies.

Note: This means that the only conditions that may be imposed on such a visa are those conditions set out in subclause (1).

050.613A

(1) In the case of a visa (other than a visa to which clause 050.613, 050.616A or 050.616B applies) granted to an applicant who:

(a) applies for a protection visa; and

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

condition 8101, unless condition 8116 is imposed.

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

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

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(4) Despite anything in the other provisions of this Division, those provisions do not apply in relation to a visa to which subclause (1) applies.

Note: This means that the only conditions that are, or may be, imposed on such a visa are those conditions set out in subclauses (1) and (2).

050.614

(1) In the case of a visa granted to an applicant who:
(a) is an applicant for a protection visa; and
(b) meets the requirements of subclause 050.212(3A), (4), (4AA) or (4A);
if condition 8101 or 8116 applied to the last visa held by the applicant, that condition.

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

050.615

(1) In the case of a visa granted to an applicant who:
(a) meets the requirements of subclause 050.212(5B) or (6); and
(b) was not an unlawful non-citizen after the application for a substantive visa was finally determined up until the time of the request for the Minister:
(i) to substitute a more favourable decision under section 351, or repealed section 417, of the Act; or
(ii) to make a determination under section 48B of the Act;
if condition 8101 or 8116 applied to the last visa held by the applicant, that condition.

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

050.615A

(1) In the case of a visa granted to an applicant who:
(a) meets the requirements of subclause 050.212(5B) or (6); and
(b) was an unlawful non-citizen for all or part of the period after the application for a substantive visa was finally determined until the time of the request for the Minister:
(i) to substitute a more favourable decision under section 351, or repealed section 417, of the Act; or
(ii) to make a determination under section 48B of the Act;
condition 8101, unless condition 8116 is imposed.

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

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

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050.616A

(1) In the case of a visa granted under section 195A of the Act—any one or more of conditions 8101, 8104, 8116, 8201, 8207, 8303, 8401, 8402, 8505, 8506, 8507, 8508, 8510, 8511, 8512, 8514, 8548, 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8560, 8562, 8563 and 8578 may be imposed.

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

(3) Despite anything in the other provisions of this Division, those provisions do not apply in relation to a visa to which subclause (1) applies.

Note: This means that the only conditions that may be imposed on such a visa are those conditions set out in subclause (1).

050.616B

(1) In the case of:

(a) a visa granted under regulation 2.24A; or

(b) a visa (other than a visa granted under section 195A of the Act) granted to an applicant in respect of whom:

(i) a weapons of mass destruction determination has been made; and

(ii) the Foreign Minister, or a person authorised by the Foreign Minister, has not subsequently determined that the applicant is no longer a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction;

the following:

(c) conditions 8103 and 8207;

(d) any 1 or more of conditions 8501, 8303, 8549, 8401, 8402, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8512, 8513, 8514, 8550, 8552, 8553, 8554, 8555, 8556, 8560, 8563, 8564, 8566 and 8578 may be imposed.

(2) Despite anything in the other provisions of this Division, those provisions do not apply in relation to a visa to which subclause (1) applies.

Note: This means that the only conditions that are, or may be, imposed on such a visa are those conditions set out in subclause (1).

050.617

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

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

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Clause 050.618

050.618

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

050.619

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

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

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

050.620

In addition to any other condition imposed by another provision of this Division, if:

(a) the person to whom the visa would be granted is an applicant for a Subclass 103 (Parent) visa or a Subclass 143 (Contributory Parent) visa; and

(b) the person is seeking to meet the requirements of subclause 103.214(2), 103.313(2), 143.214(2) or 143.313(2);

the following apply:

(c) condition 8303 must be imposed if that condition applied to the last substantive visa held by the applicant;

(d) condition 8501 may be imposed.

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Subclass 051—Bridging (Protection Visa Applicant)

051.1—Interpretation

Note 1: ***ART*** is defined in subsection 5(1) of the Act. ***Compelling need to work*** and ***criminal detention*** are defined in regulation 1.03. For ***eligible non-citizen***, see regulation 2.20. For ***finally determined***, see section 11A of the Act. There are no interpretation provisions specific to this Part.

Note 2: A Subclass 051 visa may also be granted without application.

051.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

051.21—Criteria to be satisfied at time of application

051.211

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

051.212

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

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

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

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

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

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

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

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

051.213

The Minister is satisfied that the applicant satisfies:

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(a) the public interest criteria 4001, 4002 and 4003; and
(b) the health criteria in clauses 866.223, 866.224, 866.224A and 866.224B.

051.22—Criteria to be satisfied at time of decision

051.221

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

051.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

051.4—Circumstances applicable to grant

051.411

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

051.5—When visa is in effect

051.511

(1) In the case of a visa granted to a non-citizen who has applied for a protection visa—bridging visa coming into effect on grant, permitting the holder to remain in Australia until:
  (a) either:
    (i) if the Minister's decision in respect of the protection visa application is to grant a visa—the grant of the protection visa; or
    (ii) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) does not apply in relation to the decision—35 days after the Minister makes the decision; or
    (aa) if the Minister's decision in respect of that application is to refuse to grant a visa and subclause (1A) applies in relation to the decision—the time the Minister makes the decision; or
  (b) if the protection visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or
  (ba) if the protection visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or
  (bb) if the protection visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act, as in force at the time of the decision, on referral of that refusal under section 473CA of the Act as in force at the time of the referral (other than a

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decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or

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

(d) if the holder withdraws the application for the protection visa or for review—35 days after that withdrawal; or

(e) if the Minister decides that the protection visa application is invalid—35 days after the Minister makes the decision; or

(f) if the ART or the Immigration Assessment Authority remits the application for the protection visa to the Minister for reconsideration—the end of the period worked out in accordance with whichever paragraph of this subclause applies in relation to the reconsideration.

(1A) This subclause applies in relation to a decision to refuse to grant the non-citizen a substantive visa if:

(a) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003;

(ii) the non-citizen did not satisfy paragraph (b) of that criterion; or

(b) both of the following apply:

(i) a criterion for the grant of the substantive visa is that the non-citizen satisfies public interest criterion 4003A;

(ii) the non-citizen did not satisfy that criterion.

(2) For the purposes of subparagraph (1)(a)(ii) and paragraphs (1)(b), (ba), (bb) and (e), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph or subparagraph; and

(b) irrespective of the validity of the decision.

051.512

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

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

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

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

(d) if a court remits a matter to which the judicial review proceedings relate to the ART, or to the Minister, for reconsideration—permitting the holder to remain in Australia in accordance with the relevant provision of subclause 051.511(1).

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Clause 051.513

051.513

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

(a) either:

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

(ii) if the Minister's decision in respect of that application is to refuse to grant a visa—35 days after the Minister makes the decision; or

(b) if the protection visa application is refused and the ART decides that the holder's application for merits review of that refusal was not made in accordance with the law governing the making of applications to the ART—35 days after the ART makes the decision; or

(ba) if the protection visa application is refused and the ART makes a decision on the holder's application for merits review of that refusal (other than a decision to remit the application to the Minister for reconsideration)—35 days after the ART makes the decision; or

(bb) if the protection visa application is refused and the Immigration Assessment Authority makes a decision under subsection 473CC(2) of the Act, as in force at the time of the decision, on referral of that refusal under section 473CA of the Act as in force at the time of the referral (other than a decision to remit the application to the Minister for reconsideration)—35 days after the Immigration Assessment Authority makes the decision; or

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

(d) if the holder withdraws the application for the protection visa or for review—35 days after that withdrawal.

(1A) For the purposes of subparagraph (1)(a)(ii) and paragraphs (1)(b), (ba) and (bb), the 35 day period begins to run:

(a) despite any failure to comply with the requirements of the Act or these Regulations in relation to the decision mentioned in the paragraph or subparagraph; and

(b) irrespective of the validity of the decision.

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

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

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

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

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

051.6—Conditions

051.611

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

051.611A

(1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to which any other clause in this Division applies) who:
   (a) applies for a protection visa; and
   (b) has been in Australia for a period of 45 days or more, or for periods totalling 45 days or more, (not including any day for part of which the applicant was not in Australia) in the 12 months immediately before the date of that application; and
   (c) is not within a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph;

condition 8101, unless condition 8116 is imposed.

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

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

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

051.612

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

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

051.613

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

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Subclass 060—Bridging F

060.1—Interpretation

Note: For ***human trafficking*** see regulation 1.03. There are no interpretation provisions specific to this Part.

060.2—Primary criteria

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

060.22—Criteria to be satisfied at time of decision

060.221

The applicant has been identified as a suspected victim of human trafficking, slavery or slavery-like practices.

060.222

Suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.223

If the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.224

If the applicant was the subject of an assistance notice when the application was made, the notice has not been revoked.

060.3—Secondary criteria

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

060.32—Criteria to be satisfied at time of decision

060.321

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

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060.322

The applicant continues to be a member of the immediate family of the primary applicant.

060.323

Suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.324

If the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.325

If the primary applicant was the subject of an assistance notice when the application was made, the notice has not been revoked.

060.4—Circumstances applicable to grant

060.411

(1) An applicant:
  (a) to whom subregulation 2.20(14) applies; and
  (b) who applied for the visa using the application process described in subregulation 2.20B(2);

must be outside Australia when the visa is granted.

(2) An applicant:
  (a) to whom subregulation 2.20(15) applies; and
  (b) who applied for the visa using the application process described in subregulation 2.20B(2);

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

(3) An applicant:
  (a) to whom subregulation 2.20(15) applies except that he or she has been immigration cleared; and
  (b) who applied for the visa using the application process described in subregulation 2.20B(2);

must be in Australia when the visa is granted.

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

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Clause 060.511

060.5—When visa is in effect

060.511

(1) For a person to whom subregulation 2.20(14) applies, and who made an application in accordance with subregulation 2.20B(2)—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and
  (c) permitting the holder to remain in Australia until a date specified by the Minister.

(2) For a person to whom subregulation 2.20(15) applies regardless of whether the person has been immigration cleared, and who made an application in accordance with subregulation 2.20B(2)—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and
  (c) permitting the holder to remain in Australia until the earliest of the following:
    (i) a date specified by the Minister;
    (ii) 28 days after the day the assistance notice is revoked in writing by the Minister, the Secretary or an SES employee or acting SES employee of the Department.

(2A) For a person who is the subject of an assistance notice, or a person who is a member of the immediate family of such a person, other than a person to whom subclause (1) or (2) applies—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until 28 days after the day the assistance notice is revoked in writing by the Minister, the Secretary or an SES employee or acting SES employee of the Department.

(3) In any other case—bridging visa:
  (a) coming into effect on grant; and
  (b) permitting the holder to remain in Australia until the earliest of the following:
    (i) a date specified by the Minister;
    (ii) the end of 45 days after the date of the grant;
    (iii) if:
      (A) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, under paragraph 1306(3)(d) of Schedule 1 that the holder has been identified as a suspected victim of human trafficking, slavery or slavery-like practices; and
      (B) an officer of that police force tells Immigration, in writing, that the holder is no longer identified as a suspected victim;

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

(iv) if:

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

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

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

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

060.6—Conditions

060.611

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

060.612

In any other case, any one or more of conditions 8101, 8401, 8505 and 8506 may be imposed.

060.613

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

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

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

condition 8502 must be imposed.

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Subclass 070—Bridging (Removal Pending)

070.1—Interpretation

070.111

In this Part:

eligible non-citizen has the meaning given in regulation 2.20.

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

serious offence means an offence against a law of the Commonwealth, a State or a Territory where:

(a) it is an offence punishable by imprisonment for life or for a period, or maximum period, of at least 5 years; and

(b) the particular conduct constituting the offence involves or would involve:

(i) loss of a person's life or serious risk of loss of a person's life; or

(ii) serious personal injury or serious risk of serious personal injury; or

(iii) sexual assault; or

(iv) the production, publication, possession, supply or sale of, or other dealing in, child abuse material (within the meaning of Part 10.6 of the *Criminal Code*); or

(v) consenting to or procuring the employment of a child, or employing a child, in connection with material referred to in subparagraph (iv); or

(vi) acts done in preparation for, or to facilitate, the commission of a sexual offence against a person under 16; or

(vii) domestic or family violence (including in the form of coercive control); or

(viii) threatening or inciting violence towards a person or group of persons on the ground of an attribute of the person or one or more members of the group; or

(ix) people smuggling; or

(x) human trafficking.

vulnerable person means a person who:

(a) is at least 18; and

(b) has a disability.

070.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

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070.21—Criteria to be satisfied at time of application

070.211

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

070.22—Criteria to be satisfied at time of decision

070.221

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

070.222

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

070.223

The applicant satisfies public interest criteria 4001 and 4002.

070.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

070.4—Circumstances applicable to grant

070.411

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

070.5—When visa is in effect

070.511

Bridging visa:

(a) coming into effect on grant or as soon as the visa is taken to be granted under paragraph 76A(3)(a) or 76AA(2)(b) or (3)(c) of the Act; and

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

(c) ceasing at the earliest of the following:

(i) when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, stating that the Minister is satisfied that the holder's removal from Australia is reasonably practicable;

(ii) when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, stating that the holder has breached a condition to which the visa is subject;

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(iii) when the Minister grants the holder another Bridging R (Class WR) visa under regulation 2.25AB.

070.6—Conditions

070.611

(1) If the visa is not a visa that is taken to be granted under paragraph 76AA(2)(b) or (3)(c) of the Act:
  (a) conditions 8303, 8513, 8514, 8541, 8542 and 8543 must be imposed; and
  (b) condition 8401 must be imposed if condition 8621 is not imposed under subclause 070.612A(1).

(2) If the visa is taken to be granted under paragraph 76AA(2)(b) or (3)(c) of the Act, conditions 8401, 8513, 8514, 8541, 8542, 8543, 8551, 8552, 8553, 8554, 8555, 8556, 8560, 8561, 8562, 8563, 8614 and 8625 must be imposed.

070.612

If the Minister has granted the visa under section 195A of the Act or regulation 2.25AA or 2.25AB, conditions 8551, 8552, 8553, 8554, 8555, 8556, 8560, 8561, 8562, 8563, 8564, 8614, 8616 and 8625 must be imposed, in addition to any other condition imposed by or under another provision of this Division.

070.612A

(1) In this clause, each of the following conditions is a ***community protection condition***:
  (a) condition 8617;
  (b) condition 8618;
  (c) condition 8612;
  (d) condition 8615;
  (e) condition 8626;
  (f) condition 8622;
  (g) condition 8623;
  (h) condition 8624:
  (i) condition 8621;
  (j) condition 8620.

Note: The order in which the community protection conditions are listed is intentional: see subclause (3).

(2) The Minister must impose a community protection condition if:
  (a) subclause (6) applies to the visa; and
  (b) despite the other conditions imposed on the visa by or under this subclause or another provision of this Division, the Minister is satisfied on the balance of probabilities that the holder poses a substantial risk of seriously

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harming any part of the Australian community by committing a serious offence; and

(c) the Minister is satisfied on the balance of probabilities that the imposition of the condition (in addition to the other conditions imposed by or under this subclause or another provision of this Division) is:

(i) reasonably necessary; and

(ii) reasonably appropriate and adapted;

for the purpose of protecting any part of the Australian community from serious harm by addressing that substantial risk; and

(d) for condition 8612, 8615, 8626, 8622 or 8623—the holder has been convicted of any one or more of the following offences:

(i) an offence in which the victim was a minor or vulnerable person;

(ii) an offence involving production, publication, possession, supply or sale of, or other dealing in, child abuse material (within the meaning of Part 10.6 of the *Criminal Code*);

(iii) an offence that involves consenting to or procuring the employment of a child, or employing a child, in connection with material referred to in subparagraph (ii);

(iv) an offence that involves acts done in preparation for, or to facilitate, the commission of a sexual offence against a person under 16; and

(e) for condition 8624—the holder has been convicted of an offence involving violence or sexual assault.

Note: See regulation 2.25AE for the period for which the visa is subject to a community protection condition (if imposed).

(3) Subject to subclause (4), the order in which the community protection conditions are listed in subclause (1) is the order in which the Minister must decide whether or not to impose the condition on the visa.

Note: The order in which the conditions are listed in subclause (1) is also the order required for the purposes of subsection 76E(4A) of the Act.

(4) The Minister is not required to consider whether to impose a community protection condition mentioned in paragraph (2)(d) or (e) unless the holder has been convicted of an offence mentioned in that paragraph that requires the imposition of the condition.

Note: For example, if the holder has not been convicted of an offence mentioned in paragraph (2)(d), the Minister:

(a) must not impose community protection condition 8612, 8615, 8626, 8622 or 8623; and

(b) is not required to consider whether or not to impose such a condition.

(5) Community protection conditions imposed by or under this clause are in addition to any other condition imposed by or under another provision of this Division.

(6) This subclause applies to a visa if:

(a) the visa was granted under regulation 2.25AA and, at the time of grant, there was no real prospect of the removal of the holder from Australia becoming practicable in the reasonably foreseeable future; or

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(b) the visa was granted under regulation 2.25AB; or
(c) the visa was granted under section 195A of the Act.

(7) Nothing in this clause requires the Minister to decide whether or not to impose a community protection condition if the visa must, under subsection 76E(4) of the Act, be granted without it being subject to that condition.

070.613

In addition to any other condition imposed by or under another provision of this Division, if the person to whom the visa would be granted has signed a code of behaviour that is in effect for the Subclass 050 (Bridging (General)) visa, condition 8566 may be imposed.

Note: The requirement to sign a code of behaviour may be imposed in accordance with section 195A of the Act.

070.614

If the visa is not a visa taken to be granted under paragraph 76AA(2)(b) or (3)(c) of the Act, condition 8506 may be imposed in addition to any other condition imposed by or under another provision of this Division.

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Subclass 100—Partner

100.1—Interpretation

100.111

In this Part:

sponsoring partner, in relation to an applicant, means:

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

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

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

100.2—Primary criteria

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

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

100.22—Criteria to be satisfied at time of decision

100.221

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

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

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

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

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

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Clause 100.221

(2A) The applicant meets the requirements of this subclause if:
(a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant to the applicant; and
(b) the applicant is the spouse or de facto partner of the sponsoring partner; and
(c) subject to subclauses (5), (6) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).

(3) The applicant meets the requirements of this subclause if the applicant:
(a) is the holder of a Subclass 309 (Partner (Provisional)) visa; and
(b) would meet the requirements of subclause (2) or (2A) except that the sponsoring partner died; and
(c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died.

(4) The applicant meets the requirements of this subclause if:
(a) the applicant is the holder of a Subclass 309 (Partner (Provisional)) visa; and
(b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
(c) the applicant has entered Australia after making the application; and
(d) either or both of the following has experienced family violence committed by the sponsoring partner:
(i) the applicant;
(ii) a member of the family unit of the sponsoring partner or of the applicant or of both of them.

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

(4AA) The applicant meets the requirements of this subclause if the applicant:
(a) is the holder of a Subclass 309 (Partner (Provisional)) visa; and
(b) would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
(c) has:
(i) custody or joint custody of, or access to; or
(ii) a residence order or contact order made under the *Family Law Act 1975* relating to;
at least one child in respect of whom the sponsoring partner:
(iii) has been granted joint custody or access by a court; or
(iv) has a residence order or contact order made under the *Family Law Act 1975*; or
(v) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

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(4A) The applicant meets the requirements of this subclause:
  (a) if the applicant held a Subclass 309 (Partner (Provisional)) visa that ceased on notification of a decision of the Minister to refuse a Subclass 100 visa; and
  (b) if the ART:
    (i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa; or
    (ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa.

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

(6) Paragraphs (2)(c) and (2A)(c) do not apply to an applicant whose sponsoring partner:
  (a) is, or was, the holder of a permanent humanitarian visa; and
  (b) before that permanent visa was granted, was in a married relationship or de facto relationship with the applicant of which Immigration was informed before that permanent visa was granted.

(7) Nothing in paragraphs (2)(c) and (2A)(c) prevents the Minister, less than 2 years after the application is made, from:
  (a) refusing to grant a Subclass 100 visa; or
  (b) granting a Subclass 100 visa to an applicant who meets the requirements of subclause (3), (4) or (4AA).

100.222

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

100.224

(1) Each member of the family unit of, and each person who is dependent on, the applicant who is an applicant for a Subclass 100 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and
  (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

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(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 100 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

100.225

If a person (in this clause called the additional applicant):
  (a) is a member of the family unit of the applicant; and
  (b) has not turned 18; and
  (c) made a combined application with the applicant—

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

100.226

If:
  (a) at least 2 years have passed since the application was made; and
  (b) the applicant does not meet the requirements of subclause 100.221(2A), (3), (4) or (4AA);

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

100.3—Secondary criteria

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

100.31—Criteria to be satisfied at time of application

100.311

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

100.32—Criteria to be satisfied at time of decision

100.321

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

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

(d) is a person:

(i) who holds:

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

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

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

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

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

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

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

100.322

The applicant:

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

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

100.324

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

100.4—Circumstances applicable to grant

100.411

The applicant must be:

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

(b) outside Australia;

when the visa is granted.

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Clause 100.511

100.5—When visa is in effect

100.511

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

100.6—Conditions

100.611

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

100.612

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

100.613

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

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Subclass 101—Child

101.1—Interpretation

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

101.2—Primary criteria

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

101.21—Criteria to be satisfied at time of application

101.211

(1) The applicant:
  (a) is a dependent child of:
    (i) an Australian citizen; or
    (ii) the holder of a permanent visa; or
    (iii) an eligible New Zealand citizen; and
  (b) subject to subclause (2), has not turned 25; and
  (c) either:
    (i) is:
      (A) the child (other than an adopted child); or
      (B) the step-child within the meaning of paragraph (b) of the definition of ***step-child***;
    of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph (a); or
    (ii) was adopted overseas by a person who, at the time of adoption, was not an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, but later became an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen.

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

101.212

The applicant is sponsored by a person who:
  (a) has turned 18; and
  (b) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

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

101.213

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

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

101.22—Criteria to be satisfied at time of decision

101.221

(1) In the case of an applicant who had not turned 18 at the time of application, the applicant:
(a) continues to satisfy the criterion in clause 101.211; or
(b) does not continue to satisfy that criterion only because the applicant has turned 18.

(2) In the case of an applicant who had turned 18 at the time of application:
(a) the applicant:
(i) continues to satisfy the criterion in clause 101.211; or
(ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
(b) the applicant continues to satisfy the criterion in clause 101.213.

101.222

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

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

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101.223

The applicant:

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

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

101.225

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

101.226

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

101.227

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

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

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

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

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

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

101.228

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

101.3—Secondary criteria

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

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Clause 101.311

101.31—Criteria to be satisfied at the time of application

101.311

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

101.312

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

101.32—Criteria to be satisfied at time of decision

101.321

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

101.322

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

101.323

The applicant:

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

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

101.325

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

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

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

101.326

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

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101.4—Circumstances applicable to grant

101.411

(1) The applicant must be outside Australia when the visa is granted if the visa is not a visa to which subclause (2) applies.

(2) This subclause applies to a visa if:
  (a) the visa is granted after 26 February 2021; and
  (b) the application for the visa was made before the end of the concession period described in subregulation 1.15N(1); and
  (c) the applicant for the visa:
    (i) was in Australia at any time during that concession period; and
    (ii) is in Australia, but not in immigration clearance, when the visa is granted.

101.5—When visa is in effect

101.511

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

101.6—Conditions

101.611

First entry must be made before a date specified by the Minister for the purpose.

101.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 102—Adoption

102.1—Interpretation

102.111

In this Part:

adoptive parent, in relation to an applicant, means the person referred to in paragraph 102.211(2)(b) or 102.211(5)(b).

child for adoption means an applicant referred to in subclause 102.211(3) or (4).

prospective adoptive parent, in relation to an applicant, means:

(a) the unmarried person referred to in subparagraph 102.211(3)(c)(i); or

(b) each of the spouses or de facto partners referred to in subparagraph 102.211(3)(c)(ii); or

(c) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen referred to in paragraph 102.211(4)(c);

as the case requires.

Note: ***eligible New Zealand citizen*** is defined in regulation 1.03, and ***adoption*** is defined in regulation 1.04.

102.2—Primary criteria

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

102.21—Criteria to be satisfied at time of application

102.211

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

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

(a) the applicant has not turned 18; and

(b) the applicant was adopted overseas by a person who:

(i) was, at the time of the adoption, an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(ii) had been residing overseas for more than 12 months at the time of the application; and

(c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and

(d) the adoptive parent has lawfully acquired full and permanent parental rights by the adoption.

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(3) An applicant meets the requirements of this subclause if:
  (a) the applicant has not turned 18; and
  (b) the applicant is resident in an overseas country; and
  (c) either:
    (i) a person who is not in a married relationship or de facto relationship, and who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen has undertaken in writing to adopt the applicant; or
    (ii) spouses or de facto partners, at least one of whom is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, have undertaken in writing to adopt the applicant; and
  (d) a competent authority in Australia:
    (i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or
    (ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.

(4) An applicant meets the requirements of this subclause if:
  (a) the applicant has not turned 18; and
  (b) the applicant is resident in an overseas country; and
  (c) a competent authority in the overseas country has allocated the applicant for prospective adoption by a person who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, or such a person and that person's spouse or de facto partner; and
  (d) either:
    (i) arrangements for the adoption are in accordance with the Adoption Convention; or
    (ii) the adoption is of a kind that may be accorded recognition by section 7 of the *Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations 2023*; and
  (e) a competent authority in Australia:
    (i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or
    (ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.

(5) An applicant meets the requirements of this subclause if:
  (a) the applicant has not turned 18; and
  (b) the applicant was adopted in accordance with the Adoption Convention, in an Adoption Convention country, by a person who was an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen when the adoption took place, or by such a person and that person's spouse or de facto partner.

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Clause 102.212

102.212

The applicant is sponsored by a person who is:

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

(b) in the case of an applicant who is a child for adoption—a prospective adoptive parent of the child; and

(c) in the case of an applicant who is an adopted child—an adoptive parent of the child.

102.213

The laws relating to adoption of the country in which the child is normally resident have been complied with.

102.22—Criteria to be satisfied at time of decision

102.221

The applicant continues to satisfy the criteria in clauses 102.211 and 102.213.

102.222

The sponsorship referred to in clause 102.212 has been approved by the Minister and is still in force.

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

102.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021.

102.225

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

102.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 102 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010 and 4020.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 102 visa is a person who:

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

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

102.227

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

102.227A

If the applicant has met the requirements of subclause 102.211(3), a competent authority in the overseas country has approved the departure of the applicant:

(a) for adoption in Australia; or

(b) in the custody of the prospective adoptive parent or parents.

102.228

(1) If:

(a) the applicant has met the requirements of subclause 102.211(4) or (5); and

(b) the adoption of the applicant took place overseas—

an adoption compliance certificate is in force in relation to the adoption.

(2) If:

(a) the applicant has met the requirements of subclause 102.211(4); and

(b) the adoption of the applicant is to take place in Australia—

the Minister is satisfied that a competent authority in the overseas country has given permission for the child to leave the overseas country in the care of a prospective adoptive parent for the purpose of adoption in Australia.

102.3—Secondary criteria

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

102.31—Criteria to be satisfied at time of application

102.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 102.21.

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Clause 102.312

102.312

The sponsorship referred to in clause 102.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

102.32—Criteria to be satisfied at time of decision

102.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 102 visa.

102.322

The sponsorship referred to in clause 102.312 has been approved by the Minister and is still in force.

102.323

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021.

102.325

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

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

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

102.326

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

102.4—Circumstances applicable to grant

102.411

(1) The applicant must be outside Australia when the visa is granted if the visa is not a visa to which subclause (2) applies.

(2) This subclause applies to a visa if:

(a) the visa is granted after 26 February 2021; and

(b) the application for the visa was made before the end of the concession period described in subregulation 1.15N(1); and

(c) the applicant for the visa:

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(i) was in Australia at any time during that concession period; and
(ii) is in Australia, but not in immigration clearance, when the visa is granted.

102.5—When visa is in effect

102.511

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

102.6—Conditions

102.611

First entry must be made before a date specified by the Minister for the purpose.

102.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 103—Parent

103.1—Interpretation

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

103.2—Primary criteria

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

103.21—Criteria to be satisfied at time of application

103.211

(1) The applicant is a parent of a person who is:
  (a) a settled Australian citizen; or
  (b) a settled Australian permanent resident; or
  (c) a settled eligible New Zealand citizen.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.214(2).

103.212

(1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:
  (a) the child; or
  (b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:
    (i) has turned 18; and
    (ii) is:
      (A) a settled Australian citizen; or
      (B) a settled Australian permanent resident; or
      (C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:
  (a) the child's cohabiting spouse, if that spouse:
    (i) has turned 18; and
    (ii) is:
      (A) a settled Australian citizen; or
      (B) a settled Australian permanent resident; or

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(C) a settled eligible New Zealand citizen; or

(b) a person who:

(i) is a relative or guardian of the child; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:

(i) is a relative or guardian of the child's spouse; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(d) a community organisation.

(4) In this clause, ***the child*** means the settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen referred to in clause 103.211.

(5) This clause does not apply if the applicant meets the requirements of subclause 103.214(2).

103.213

(1) The applicant satisfies the balance of family test.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.214(2).

103.214

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

(2) An applicant meets the requirements of this subclause 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 a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; and

(b) during the period commencing on 8 May 2018 and ending on the day the application for the Subclass 103 (Parent) visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (a)(i); and

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(c) the applicant was in Australia, but not in immigration clearance, when the application for the Subclass 103 (Parent) visa was made.

(3) This clause does not apply if the applicant satisfies the criteria in clauses 103.211, 103.212 and 103.213.

103.22—Criteria to be satisfied at time of decision

103.221

(1) The applicant continues to satisfy the criterion in clause 103.211.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.214(2).

103.222

(1) A sponsorship of the kind mentioned in clause 103.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 103.212.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.214(2).

103.224

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

103.225

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

103.226

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.214(2).

103.227

(1) Each person who is covered by subclause (2), (3) or (4):

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(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
(b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
(c) if the person has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

(2) This subclause covers a person:
(a) who is a member of the family unit of the applicant (the ***primary applicant***); and
(b) who is also an applicant for a Subclass 103 visa.

(3) This subclause covers a person (the ***relevant person***) if:
(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
(b) the relevant person is an applicant for a Subclass 103 visa; and
(c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:
(i) the relevant person;
(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;
(iii) a dependent child of the relevant person or of the primary applicant.

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

(4) This subclause covers a person if:
(a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) the person is an applicant for a Subclass 103 visa; and
(c) the person is a member of the family unit of a person covered by subclause (3).

103.227A

(1) Each person:
(a) who is a member of the family unit of the applicant; and
(b) who is not an applicant for a Subclass 103 visa;
satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(2) Each person:
(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and

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(b) who is a member of the family unit of a person covered by subclause 103.227(3) or (4); and

(c) who is not an applicant for a Subclass 103 visa;

satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

103.228

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

(a) is a person covered by subclause 103.227(2), (3) or (4); and

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

103.229

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

103.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria.

103.31—Criteria to be satisfied at time of application

103.311

(1) The applicant:

(a) is a member of the family unit of, and made a combined application with, a person (the ***primary applicant***) who satisfies the primary criteria in Subdivision 103.21; or

(b) is a member of the family unit of a person covered by subclause (1A).

(1A) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the relevant person's application for the visa, the spouse or de facto partner of the primary applicant; and

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

(c) the relationship between the relevant person and the primary applicant has ceased; and

(d) one or more of the following has experienced family violence committed by the primary applicant:

(i) the relevant person;

(ii) a member of the family unit of the relevant person or the primary applicant;

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(iii) a dependent child of the relevant person or primary applicant.

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.313(2).

103.312

(1) A sponsorship of the kind mentioned in clause 103.212 of the person who satisfies the primary criteria, approved by the Minister:
   (a) is in force; and
   (b) includes sponsorship of the applicant.

(2) Subclause (1) does not apply if:
   (a) paragraph 103.311(1)(b) applies to the applicant; or
   (b) the applicant meets the requirements of subclause 103.313(2).

103.313

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

(2) An applicant meets the requirements of this subclause if:
   (a) the applicant is a member of the family unit of, and makes a combined application with, a person who has met the requirements of subclause 103.214(2); and
   (b) 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 a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; and
   (c) during the period commencing on 8 May 2018 and ending on the day the application for the Subclass 103 (Parent) visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (b)(i); and
   (d) the applicant was in Australia, but not in immigration clearance, when the application for the Subclass 103 (Parent) visa was made.

(3) This clause does not apply if the applicant satisfies the criteria in clauses 103.311 and 103.312.

103.32—Criteria to be satisfied at time of decision

103.321

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

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

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(a) is the member of the family unit of a person (the ***primary applicant***) who holds a Subclass 103 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
(b) made a combined application with the primary applicant.

(3) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 103 visa, and the primary applicant has since been granted that visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant entered Australia after the applicant's visa application was made.

(4) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 103 visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant entered Australia after the applicant's visa application was made; and
(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

(5) The applicant meets the requirements of this subclause if:
(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and
(b) the applicant has made a combined application with the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
(c) a Subclass 103 visa has since been granted to the secondary applicant.

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

103.322

(1) Either:

(a) a sponsorship of the kind mentioned in clause 103.212, approved by the Minister, is in force and includes sponsorship of the applicant, whether or not the sponsor was the sponsor at the time of application; or

(b) the applicant is sponsored in accordance with subclause (1A) and the sponsorship has been approved by the Minister and is in force.

(1A) The applicant is sponsored:

(a) by a child of the primary applicant mentioned in subclause 103.321(2), (3) or (4), if the child:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(b) by the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(c) if the child or child's cohabiting spouse or de facto partner has not turned 18—by a relative or guardian of the child or child's cohabiting spouse or de facto partner, if the relative or guardian:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(d) if the child has not turned 18—by a community organisation.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.313(2).

103.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

103.324

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

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Clause 103.325

103.325

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 103.313(2).

103.326

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

103.327

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

103.328

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 103.321(3) or (4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 103 visa satisfies:
  (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  (b) special return criteria 5001, 5002 and 5010.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 103 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 103 visa and who has not turned 18 at the time of decision.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 103 visa:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to that criterion.

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103.4—Circumstances applicable to grant

103.411

(1) Unless subclause (2) or (3) applies, the applicant must be outside Australia when the visa is granted.

(2) If the applicant:
  (a) meets the requirements of subclause 103.214(2); or
  (b) meets the requirements of subclause 103.313(2) on the basis that the applicant is a family member of the applicant mentioned in paragraph (a);

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

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

(3) This subclause applies if:
  (a) the application for the visa was made before 24 March 2021; and
  (b) the applicant was in Australia on 24 March 2021; and
  (c) the visa is granted after 23 March 2021; and
  (d) the visa is granted before the end of the concession period described in subregulation 1.15N(1); and
  (e) the applicant is in Australia, but not in immigration clearance, when the visa is granted.

103.5—When visa is in effect

103.511

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

103.6—Conditions

103.611

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

103.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 114—Aged Dependent Relative

114.1—Interpretation

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

114.2—Primary criteria

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

114.21—Criteria to be satisfied at time of application

114.211

The applicant is an aged dependent relative of a person who is:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen.

114.212

(1) The applicant is sponsored:

(a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen—by the Australian relative; or

(b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:

(i) cohabits with the Australian relative; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) has turned 18.

(2) In this clause, ***the Australian relative*** means the person mentioned in clause 114.211 of whom the applicant is an aged dependent relative.

114.22—Criteria to be satisfied at time of decision

114.221

The applicant continues to satisfy the criterion in clause 114.211.

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114.222

The sponsorship referred to in clause 114.212 has been approved by the Minister and is still in force.

114.223

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

114.224

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

114.225

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

114.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 114 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
  (b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 114 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

114.227

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

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114.3—Secondary criteria

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

114.31—Criteria to be satisfied at time of application

114.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 114.21.

114.312

The sponsorship referred to in clause 114.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

114.32—Criteria to be satisfied at time of decision

114.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 114 visa.

114.322

The sponsorship referred to in clause 114.312 has been approved by the Minister and is still in force.

114.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

114.324

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

114.325

The Minister is satisfied that:

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

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

114.326

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

114.4—Circumstances applicable to grant

114.411

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

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

114.5—When visa is in effect

114.511

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

114.6—Conditions

114.611

First entry must be made before a date specified by the Minister for the purpose.

114.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 115—Remaining Relative

115.1—Interpretation

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

115.2—Primary criteria

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

115.21—Criteria to be satisfied at time of application

115.211

The applicant is a remaining relative of an Australian relative for the applicant.

115.212

The applicant is sponsored:

(a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen—by the Australian relative; or

(b) by the spouse or de facto partner of the Australian relative if:

(i) the spouse or de facto partner cohabits with the relative; and

(ii) the spouse or de facto partner is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) the spouse or de facto partner has turned 18.

115.22—Criteria to be satisfied at time of decision

115.221

The applicant continues to satisfy the criterion in clause 115.211.

115.222

A sponsorship of the kind mentioned in clause 115.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 115.212.

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115.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

115.224

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

115.225

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

115.226

(1) Each person who is covered by subclause (2), (3) or (4):

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

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

(c) if the person has previously been in Australia—satisfies special return criteria 5001 and 5002.

(2) This subclause covers a person:

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

(b) who is also an applicant for a Subclass 115 visa.

(3) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and

(b) the relevant person is an applicant for a Subclass 115 visa; and

(c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:

(i) the relevant person;

(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;

(iii) a dependent child of the relevant person or of the primary applicant.

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

(4) This subclause covers a person if:

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(a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) the person is an applicant for a Subclass 115 visa; and
(c) the person is a member of the family unit of a person covered by subclause (3).

115.226A

(1) Each person:
(a) who is a member of the family unit of the applicant; and
(b) who is not an applicant for a Subclass 115 visa;
satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(2) Each person:
(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
(b) who is a member of the family unit of a person covered by subclause 115.226(3) or (4); and
(c) who is not an applicant for a Subclass 115 visa;
satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

115.227

If a person (in this clause called the additional applicant):
(a) is a person covered by subclause 115.226(2), (3) or (4); and
(b) has not turned 18; and
(c) made a combined application with the applicant—
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

115.229

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

115.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria.

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115.31—Criteria to be satisfied at time of application

115.311

(1) The applicant:
  (a) is a member of the family unit of, and made a combined application with, a person (the ***primary applicant***) who satisfies the primary criteria in Subdivision 115.21; or
  (b) is a member of the family unit of a person covered by subclause (2).

(2) This subclause covers a person (the ***relevant person***) if:
  (a) the relevant person was, at the time of the relevant person's application for the visa, the spouse or de facto partner of the primary applicant; and
  (b) the relevant person made a combined application with the primary applicant; and
  (c) the relationship between the relevant person and the primary applicant has ceased; and
  (d) one or more of the following has experienced family violence committed by the primary applicant:
    (i) the relevant person;
    (ii) a member of the family unit of the relevant person or the primary applicant;
    (iii) a dependent child of the relevant person or primary applicant.

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

115.312

(1) A sponsorship of the kind mentioned in clause 115.212 of the person who satisfies the primary criteria, approved by the Minister:
  (a) is in force; and
  (b) includes sponsorship of the applicant.

(2) Subclause (1) does not apply if paragraph 115.311(1)(b) applies to the applicant.

115.32—Criteria to be satisfied at time of decision

115.321

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

(2) The applicant meets the requirements of this subclause if the applicant:
  (a) is the member of the family unit of a person (the ***primary applicant***) who holds a Subclass 115 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
  (b) made a combined application with the primary applicant.

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

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(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 115 visa, and the primary applicant has since been granted that visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant entered Australia after the applicant's visa application was made.

(4) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 115 visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant entered Australia after the applicant's visa application was made; and
(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

(5) The applicant meets the requirements of this subclause if:
(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and
(b) the applicant has made a combined application with the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
(c) a Subclass 115 visa has since been granted to the secondary applicant.

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

115.322

(1) The applicant is sponsored:

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(a) by an Australian relative for the applicant, an Australian relative for the primary applicant mentioned in subclause 115.321(2), (3) or (4) or an Australian relative for an applicant who meets the requirements of subclause 115.321(3) or (4), if the relative:
  (i) has turned 18; and
  (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

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

(2) The sponsorship is approved by the Minister and is in force.

115.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

115.324

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

115.325

The Minister is satisfied that:

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

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

115.326

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

115.327

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 115.321(3) or (4).

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(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 115 visa satisfies:
  (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  (b) special return criteria 5001 and 5002.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 115 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 115 visa and who has not turned 18 at the time of decision.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 115 visa:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to that criterion.

115.4—Circumstances applicable to grant

115.411

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

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

115.5—When visa is in effect

115.511

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

115.6—Conditions

115.611

First entry must be made before a date specified by the Minister for the purpose.

115.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 116—Carer

116.1—Interpretation

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

116.2—Primary criteria

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

116.21—Criteria to be satisfied at time of application

116.211

(1) The applicant claims to be a carer of an Australian relative of the applicant.

(2) In this clause, ***Australian relative***, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

116.212

The applicant is sponsored:

(a) by the Australian relative mentioned in clause 116.211 if that relative has turned 18; or

(b) by the spouse or de facto partner of the Australian relative if:

(i) the spouse or de facto partner cohabits with the relative; and

(ii) the spouse or de facto partner is an Australian citizen or an Australian permanent resident or an eligible New Zealand citizen; and

(iii) the spouse or de facto partner has turned 18.

116.22—Criteria to be satisfied at time of decision

116.221

The applicant is a carer of the Australian relative mentioned in clause 116.211.

116.222

The sponsorship referred to in clause 116.212 has been approved by the Minister and is still in force.

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Clause 116.223

116.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and

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

116.224

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.226

(1) Each person who is covered by subclause (2), (3) or (4):

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

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

(c) if the person has previously been in Australia—satisfies special return criterion 5001.

(2) This subclause covers a person:

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

(b) who is also an applicant for a Subclass 116 visa.

(3) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and

(b) the relevant person is an applicant for a Subclass 116 visa; and

(c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:

(i) the relevant person;

(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;

(iii) a dependent child of the relevant person or of the primary applicant.

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

(4) This subclause covers a person if:

(a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and

(b) the person is an applicant for a Subclass 116 visa; and

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(c) the person is a member of the family unit of a person covered by subclause (3).

116.226A

(1) Each person:
(a) who is a member of the family unit of the applicant; and
(b) who is not an applicant for a Subclass 116 visa;
satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(2) Each person:
(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
(b) who is a member of the family unit of a person covered by subclause 116.226(3) or (4); and
(c) who is not an applicant for a Subclass 116 visa;
satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

116.227

If a person (in this clause called the additional applicant):
(a) is a person covered by subclause 116.226(2), (3) or (4); and
(b) has not turned 18; and
(c) made a combined application with the applicant—
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

116.229

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

116.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria.

116.31—Criteria to be satisfied at time of application

116.311

(1) The applicant:

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(a) is a member of the family unit of, and made a combined application with, a person (the ***primary applicant***) who satisfies the primary criteria in Subdivision 116.21;or

(b) is a member of the family unit of a person covered by subclause (2).

(2) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the relevant person's application for the visa, the spouse or de facto partner of the primary applicant; and

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

(c) the relationship between the relevant person and the primary applicant has ceased; and

(d) one or more of the following has experienced family violence committed by the primary applicant:

(i) the relevant person;

(ii) a member of the family unit of the relevant person or the primary applicant;

(iii) a dependent child of the relevant person or primary applicant.

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

116.312

(1) The sponsorship referred to in clause 116.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

(2) Subclause (1) does not apply if paragraph 116.311(1)(b) applies to the applicant.

116.32—Criteria to be satisfied at time of decision

116.321

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

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

(a) is the member of the family unit of a person (the ***primary applicant***) who holds a Subclass 116 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with the primary applicant.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 116 visa, and the primary applicant has since been granted that visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following has experienced family violence committed by the primary applicant:

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(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and

(d) the applicant entered Australia after the applicant's visa application was made.

(4) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 116 visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant entered Australia after the applicant's visa application was made; and
(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

(5) The applicant meets the requirements of this subclause if:
(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and
(b) the applicant has made a combined application with the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
(c) a Subclass 116 visa has since been granted to the secondary applicant.

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

116.322

(1) The applicant is sponsored:
(a) by an Australian relative for the applicant, an Australian relative for the primary applicant mentioned in subclause 116.321(2), (3) or (4) or an Australian relative for an applicant who meets the requirements of subclause 116.321(3) or (4), if the relative:
(i) has turned 18; and
(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

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

(2) The sponsorship is approved by the Minister and is in force.

116.323

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

116.324

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.326

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

116.327

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 116.321(3) or (4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 116 visa satisfies:
(a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
(b) if the applicant has previously been in Australia—special return criteria 5001.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 116 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 116 visa and who has not turned 18 at the time of decision.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 116 visa:

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

116.4—Circumstances applicable to grant

116.411

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

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

116.5—When visa is in effect

116.511

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

116.6—Conditions

116.611

First entry must be made before a date specified by the Minister for the purpose.

116.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 117—Orphan Relative

117.1—Interpretation

117.111

In this Part:

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

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

117.2—Primary criteria

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

117.21—Criteria to be satisfied at time of application

117.211

The applicant:

(a) is an orphan relative of an Australian relative of the applicant; or

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

117.212

The applicant is sponsored:

(a) by the Australian relative, if the relative:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or

(b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) cohabits with the Australian relative.

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117.22—Criteria to be satisfied at time of decision

117.221

The applicant:

(a) continues to satisfy the criterion in clause 117.211; or

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

117.222

The sponsorship referred to in clause 117.212 has been approved by the Minister and is still in force.

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

117.223

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

117.224

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

117.225

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 117 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 117 visa is a person who:

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

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

117.226

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

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117.227

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

117.3—Secondary criteria

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

117.31—Criteria to be satisfied at time of application

117.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 117.21.

117.312

The sponsorship referred to in clause 117.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

117.32—Criteria to be satisfied at time of decision

117.321

The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 117 visa.

117.322

The sponsorship referred to in clause 117.312 has been approved by the Minister and is still in force.

117.323

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

117.324

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

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

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

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117.325

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

117.4—Circumstances applicable to grant

117.411

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

117.5—When visa is in effect

117.511

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

117.6—Conditions

117.611

First entry must be made before a date specified by the Minister for the purpose.

117.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 143—Contributory Parent

143.1—Interpretation

143.111

In this Part, a reference to an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa means a person:

(a) who, at the time of application, holds a Subclass 173 (Contributory Parent (Temporary)) visa; or

(b) who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or

(c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application.

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

143.2—Primary criteria

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

143.21—Criteria to be satisfied at time of application

143.211

(1) The applicant is:

(a) a parent of a person (the ***child***) who is:

(i) a settled Australian citizen; or

(ii) a settled Australian permanent resident; or

(iii) a settled eligible New Zealand citizen; or

(b) a person who:

(i) either:

(A) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or

(B) both:

(I) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and

(II) is the holder of a substituted Subclass 600 visa at the time of application; and

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(ii) is no longer the parent of a child described in paragraph (a) because the child has died; and

(iii) is not the parent of another child described in paragraph (a).

(2) If the applicant:

(a) is in Australia at the time of application; and

(b) is not the holder of a substantive visa;

the applicant satisfies criterion 3002.

(3) Subclauses (1) and (2) do not apply if the applicant meets the requirements of subclause 143.214(2).

143.212

(1) The applicant is:

(a) sponsored in accordance with subclause (2) or (3); or

(b) taken, under subclause (4), to be sponsored in accordance with this clause.

(2) If the child has turned 18, the applicant is sponsored by:

(a) the child; or

(b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

(a) the child's cohabiting spouse, if that spouse:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(b) a person who:

(i) is a relative or guardian of the child; and

(ii) has turned 18; and

(iii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:

(i) is a relative or guardian of the child's spouse; and

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(ii) has turned 18; and
(iii) is:
(A) a settled Australian citizen; or
(B) a settled Australian permanent resident; or
(C) a settled eligible New Zealand citizen; or
(d) a community organisation.

(4) The applicant is taken to be sponsored in accordance with this clause if:
(a) the applicant:
(i) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or
(ii) both:
(A) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and
(B) is the holder of a substituted Subclass 600 visa at the time of application; and
(b) the person who sponsored the applicant for the Subclass 173 (Contributory Parent (Temporary)) visa dies before the Subclass 173 (Contributory Parent (Temporary)) visa ceases to be in effect; and
(c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).

(5) This clause does not apply if the applicant meets the requirements of subclause 143.214(2).

143.213

(1) For an applicant who, at the time of application, is neither:
(a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; nor
(b) the holder of a substituted Subclass 600 visa;
the applicant satisfies the balance of family test.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.214

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

(2) An applicant meets the requirements of this subclause 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 since last entering Australia was a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; and

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(b) during the period commencing on 8 May 2018 and ending on the day the application for the Subclass 143 (Contributory Parent) visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (a)(i); and
(c) the applicant was in Australia, but not in immigration clearance, when the application for the Subclass 143 (Contributory Parent) visa was made.

(3) Subclause (1) does not apply if the applicant satisfies the criteria in clauses 143.211, 143.212 and 143.213.

143.22—Criteria to be satisfied at time of decision

143.221

(1) The applicant continues to meet the requirements set out in clause 143.211.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.222

If a sponsorship of the kind mentioned in subclause 143.212(2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:
(a) the sponsor at the time of application; or
(b) another sponsor who meets the requirements set out in subclause 143.212(2) or (3);
whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 143.212(2) or (3).

143.222A

(1) If clause 143.222 does not apply:
(a) the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; and
(b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 143 (Contributory Parent) visa; and
(c) there is no other sponsor available who meets the requirements set out in subclause 143.212(2) or (3).

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.224

(1) The applicant:
(a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.225

(1) If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was …	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	4004, 4005, 4009 and 4010
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.225AA

If the applicant meets the requirements of subclause 143.214(2), the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021.

143.225A

(1) If the applicant (the ***primary applicant***) does not meet the requirements of subclause 143.214(2), each person who is covered by subclause (2), (3) or (4) must satisfy public interest criteria 4020.

(2) This subclause covers a person:
(a) who is a member of the family unit of the primary applicant; and
(b) who is also an applicant for a Subclass 143 visa.

(3) This subclause covers a person (the ***relevant person***) if:
(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
(b) the relevant person is an applicant for a Subclass 143 visa; and
(c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:

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(i) the relevant person;
(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;
(iii) a dependent child of the relevant person or of the primary applicant.

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

(4) This subclause covers a person if:
(a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) the person is an applicant for a Subclass 143 visa; and
(c) the person is a member of the family unit of a person covered by subclause (3).

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

143.225B

If the applicant meets the requirements of subclause 143.214(2), each person who is covered by subclause 143.225A(2), (3) or (4) is a person who satisfies:
(a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019 and 4020; and
(b) special return criteria 5001, 5002 and 5010.

143.226

If the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

143.227

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

143.228

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.214(2).

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Clause 143.229

143.229

(1) If the applicant (the ***primary applicant***) was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each person covered by subclause (3), (4) or (5):

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

(b) if the person has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the primary applicant.

Item	If the primary applicant …	the public interest criteria to be satisfied by the person covered by subclause (3), (4) or (5) are …	and if the person has previously been in Australia, the special return criteria are …
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the person had turned 18 at the time of application—4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the person has previously held a Subclass 173 visa—such health checks as the Minister considers appropriate; and (c) if the person had turned 18 at the time of application—4019	5001, 5002 and 5010

(2) Subclause (1) does not apply if the primary applicant meets the requirements of subclause 143.214(2).

(3) This subclause covers a person:

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

(b) who is also an applicant for a Subclass 143 visa.

(4) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and

(b) the relevant person is an applicant for a Subclass 143 visa; and

(c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:

(i) the relevant person;

(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;

(iii) a dependent child of the relevant person or of the primary applicant.

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

(5) This subclause covers a person if:
  (a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
  (b) the person is an applicant for a Subclass 143 visa; and
  (c) the person is a member of the family unit of a person covered by subclause (4).

143.230

(1) If the applicant (the ***primary applicant***) was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each person covered by subclause (2) or (3) must satisfy the public interest criteria mentioned in the item in the table that relates to the primary applicant.

Item	If the primary applicant was …	the public interest criteria to be satisfied by the person covered by subclause (2) or (3) are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

(2) This subclause covers a person:
  (a) who is a member of the family unit of the primary applicant; and
  (b) who is not an applicant for a Subclass 143 visa.

(3) This subclause covers a person:
  (a) who was, at the time of application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
  (b) who is a member of the family unit of a person covered by subclause 143.229(4) or (5); and
  (c) who is not an applicant for a Subclass 143 visa.

143.231

If a person (the additional applicant):
  (a) is a person covered by subclause 143.229(3), (4) or (5); and
  (b) has not turned 18; and
  (c) made a combined application with the applicant;

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

143.232

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

143.3—Secondary criteria

143.31—Criteria to be satisfied at time of application

143.311

(1) One of the following applies:

(a) the applicant is a member of the family unit of, and made a combined application with, (the ***primary applicant***) who satisfies the primary criteria in Subdivision 143.21;

(aa) the applicant is a member of the family unit of a person covered by subclause (3);

(b) each of the following applies:

(i) the applicant is a member of the family unit of a person (the ***other applicant***) who:

(A) has applied for a Contributory Parent (Migrant) (Class CA) visa; and

(B) was in Australia at the time of application; and

(C) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 143.21;

(ii) the other applicant is the holder of:

(A) a Subclass 173 (Contributory Parent (Temporary)) visa; or

(B) a substituted Subclass 600 visa;

(iii) the Minister has not decided to grant or refuse to grant the visa to the other applicant;

(iv) the applicant was in Australia at the time at which the applicant made the application for the Contributory Parent (Migrant) (Class CA) visa.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.313(2).

(3) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the relevant person's application for the visa, the spouse or de facto partner of the primary applicant; and

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

(c) the relationship between the relevant person and the primary applicant has ceased; and

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(d) one or more of the following has experienced family violence committed by the primary applicant:
  (i) the relevant person;
  (ii) a member of the family unit of the relevant person or the primary applicant;
  (iii) a dependent child of the relevant person or primary applicant.

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

143.312

(1) One of the following applies:
  (a) the sponsorship mentioned in subclause 143.212(2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
  (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 143.212 (4);
  (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application and:
    (i) the contributory parent newborn child's parent was granted a Subclass 143 (Contributory Parent) visa on the basis of meeting paragraph 143.222(b); or
    (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 143 (Contributory Parent) visa died after that visa was granted.

(2) Subclause (1) does not apply if:
  (a) paragraph 143.311(1)(aa) applies to the applicant; or
  (b) the applicant meets the requirements of subclause 143.313(2).

143.313

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

(2) An applicant meets the requirements of this subclause if:
  (a) the applicant is a member of the family unit of, and makes a combined application with, a person who has met the requirements of subclause 143.214(2); and
  (b) 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 a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa; and
  (c) during the period commencing on 8 May 2018 and ending on the day the application for the Subclass 143 (Contributory Parent) visa is made, the applicant has not held any substantive visa other than a visa mentioned in subparagraph (b)(i); and

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(d) the applicant was in Australia, but not in immigration clearance, when the application for the Subclass 143 (Contributory Parent) visa was made.

(3) Subclause (1) does not apply if the applicant satisfies the criteria in clauses 143.311 and 143.312.

143.32—Criteria to be satisfied at time of decision

143.321

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

(2) The applicant meets the requirements of this subclause if the applicant:
(a) is the member of the family unit of a person (the ***primary applicant***) who holds a Subclass 143 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
(b) made a combined application with the primary applicant.

(3) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 143 visa, and the primary applicant has since been granted that visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
(iii) a dependent child of the applicant or of the primary applicant; and
(d) the applicant:
(i) was in Australia at the time the applicant's visa application was made; or
(ii) entered Australia after the applicant's visa application was made.

(4) The applicant meets the requirements of this subclause if:
(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 143 visa; and
(b) the relationship between the primary applicant and the applicant has ceased; and
(c) one or more of the following has experienced family violence committed by the primary applicant:
(i) the applicant;
(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

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(iii) a dependent child of the applicant or of the primary applicant; and

(d) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 143 visa has since been granted to the secondary applicant.

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

143.322

(1) One of the following applies:

(a) the sponsorship, mentioned in paragraph 143.222(a), that includes sponsorship of the applicant:

(i) has been approved by the Minister in relation to the applicant; and

(ii) is still in force in relation to the applicant;

(aa) the applicant is sponsored in accordance with subclause (1A) and the sponsorship has been approved by the Minister and is in force;

(b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 143.222(b) at the time of decision, and the applicant meets those requirements at the time of decision;

(c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 143.312(c).

(1A) The applicant is sponsored:

(a) by a child of the primary applicant mentioned in subclause 143.321(2), (3) or (4), if the child:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(b) by the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:

(i) has turned 18; and

(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(c) if the child or child's cohabiting spouse or de facto partner has not turned 18—by a relative or guardian of the child or child's cohabiting spouse or de facto partner, if the relative or guardian:

(i) has turned 18; and

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(ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or

(d) if the child has not turned 18—by a community organisation.

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.313(2).

143.323

(1) The applicant:

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

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.313(2).

143.324

(1) If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a person covered by subclause 143.321(2), (3), (4) or (5), and the person was …	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 600 visa at the time of application	4004, 4005, 4009 and 4010
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.313(2).

143.324A

If the applicant meets the requirements of subclause 143.313(2), the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021.

143.325

For an applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

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143.326

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

143.327

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

(2) Subclause (1) does not apply if the applicant meets the requirements of subclause 143.313(2).

143.328

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

143.329

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

143.330

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 143.321(3) or (4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 143 visa:
  (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the secondary applicant; and
  (b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the secondary applicant.

Item	If the secondary applicant …	the public interest criteria to be satisfied by the member of the family unit of the secondary applicant are …	and if the member of the family unit of the secondary applicant has previously been in Australia, the special return criteria are …
1	was not the holder of a substituted Subclass 600 visa	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the member of the family unit had	5001, 5002 and 5010

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Clause 143.411

Item	If the secondary applicant …	the public interest criteria to be satisfied by the member of the family unit of the secondary applicant are …	and if the member of the family unit of the secondary applicant has previously been in Australia, the special return criteria are …
	at the time of application	turned 18 at the time of application—4019	
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 173 visa—such health checks as the Minister considers appropriate; and (c) if the member of the family unit had turned 18 at the time of application—4019	5001, 5002 and 5010

(3) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 143 visa and who has not turned 18 at the time of decision.

(4) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 143 visa satisfies the public interest criteria mentioned in the item in the table that relates to the secondary applicant.

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

143.4—Circumstances applicable to grant

143.411

(1) If the applicant is, at the time of application:
(a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; or
(b) the holder of a substituted Subclass 600 visa; or

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(c) a member of the family unit of an applicant who holds a substituted Subclass 600 visa; or

(d) an applicant:

(i) who is a member of the family unit of a person who is the holder of a Contributory Parent (Temporary) (Class UT) visa; and

(ii) to whom paragraph 143.311(b) applies;

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

(2) If the applicant:

(a) meets the requirements of subclause 143.214(2); or

(b) meets the requirements of subclause 143.313(2) on the basis that the applicant is a family member of the applicant mentioned in paragraph (a);

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

143.412

(1) Unless:

(a) clause 143.411 applies to the applicant at the time of application; or

(b) subclause (2) of this clause applies to the visa;

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

(2) This subclause applies to a visa if:

(a) the application for the visa was made before 24 March 2021; and

(b) the applicant for the visa was in Australia on 24 March 2021; and

(c) the visa is granted after 23 March 2021; and

(d) the visa is granted before the end of the concession period described in subregulation 1.15N(1); and

(e) the applicant for the visa is in Australia, but not in immigration clearance, when the visa is granted.

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

143.5—When visa is in effect

143.511

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

143.6—Conditions

143.611

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

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Clause 143.612

143.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 151—Former Resident

Note: This Subclass applies in relation to an application for a visa made on or after 1 November 2005.

Subclass 151 visas that relate to the former Special Eligibility (Migrant) (Class AR) visa will not be available to applicants who apply on or after 1 November 2005.

151.1—Interpretation

151.111

In this Part:

Australian defence service means:

(a) service in the Military Forces of the Commonwealth under a notice served under section 26 of the *National Service Act 1951* as in force at any time before 26 November 1964; or

(b) service before 19 January 1981:

(i) in the Permanent Forces; or

(ii) by a member of the armed forces of a foreign country on secondment to, or duty with, the Permanent Forces if the member was a permanent resident of Australia during the period of service.

defence service applicant means an applicant who satisfies the Minister that he or she:

(a) has completed at least 3 months continuous Australian defence service; or

(b) was discharged before completing 3 months of Australian defence service because the applicant was medically unfit for service, or further service, and became medically unfit because of the applicant's Australian defence service.

long residence applicant means an applicant who satisfies the Minister that he or she:

(a) spent the greater part of his or her life before the age of 18 in the migration zone as an Australian permanent resident; and

(b) did not at any time acquire Australian citizenship; and

(c) has maintained business, cultural or personal ties with Australia; and

(d) has not turned 45 at the time of application.

the Permanent Forces has the same meaning as it has in the *Defence Act 1903*.

151.2—Primary criteria

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

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Clause 151.211

151.21—Criteria to be satisfied at time of application

151.211

If the applicant is in Australia, either:

(a) the applicant is the holder of a substantive visa, other than a Subclass 771 (Transit) visa; or

(b) the applicant:

(i) is not the holder of a substantive visa, and immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and

(ii) satisfies Schedule 3 criterion 3002.

151.212

The applicant is a long residence applicant or a defence service applicant.

151.22—Criteria to be satisfied at time of decision

151.221

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4021; and

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

151.222

If the applicant is a long residence applicant who is outside Australia, the applicant also satisfies public interest criterion 4005.

151.223

If the applicant is:

(a) a long residence applicant who is in Australia; or

(b) a defence service applicant;

the applicant also satisfies public interest criterion 4007.

151.224

If the applicant is under 18, the applicant also satisfies public interest criteria 4017 and 4018.

151.225

If the applicant is a long residence applicant who is outside Australia:

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(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4005; and

(b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

(ii) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and

(c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.

151.226

If the applicant is a long residence applicant who is in Australia:

(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and

(b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(ii) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and

(c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.

151.227

If the applicant is a defence service applicant:

(a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and

(b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

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

151.227A

If the applicant is a defence service applicant who is outside Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.

151.227B

If the applicant is a defence service applicant who is in Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.

151.228

If a person (an additional applicant):

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

(b) is also an applicant for a Special Eligibility (Class CB) visa; and

(c) has not turned 18;

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

151.229

If the applicant:

(a) is in Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

151.229A

If the applicant:

(a) is outside Australia; and

(b) has previously been in Australia;

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

151.229B

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

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151.3—Secondary criteria

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

151.31—Criteria to be satisfied at time of application

151.311

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

(a) has applied for a Special Eligibility (Class CB) visa; and

(b) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 151.21;

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

151.32—Criteria to be satisfied at time of decision

151.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa.

151.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4021; and

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

151.323

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

(a) was a long residence applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; and

(b) was outside Australia at the time of the person's application;

the applicant also satisfies public interest criterion 4005.

151.324

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

(a) was a long residence applicant in Australia who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; or

(b) was a defence service applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa;

the applicant also satisfies public interest criterion 4007.

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Clause 151.325

151.325

If the applicant has not turned 18, the applicant also satisfies public interest criteria 4017 and 4018.

151.326

If the applicant:

(a) is in Australia; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

151.327

If the applicant:

(a) is outside Australia; and

(b) has previously been in Australia;

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

151.328

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

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

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

151.4—Circumstances applicable to grant

151.411

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

151.412

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

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

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151.5—When visa is in effect

151.511

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

151.6—Conditions

151.611

For an applicant who was outside Australia at the time of application:

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

(b) condition 8502 may be imposed.

Note: No conditions have been prescribed for other applicants.

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Subclass 155—Five Year Resident Return

155.1—Interpretation

Note: ***Australian permanent resident*** is defined in regulation 1.03.

155.2—Primary criteria

Note: All applicants must meet the primary criteria.

155.21—Criteria to be satisfied at time of application

155.211

The applicant:

(a) is an Australian permanent resident; or

(b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or

(c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.

155.212

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

(2) The applicant meets the requirements of this subclause if the applicant was lawfully present in Australia for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:

(a) was:

(i) the holder of a permanent visa; or

(ii) an Australian citizen; and

(b) was not the holder of:

(i) a temporary visa (other than a Subclass 601 (Electronic Travel Authority) visa, a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant—Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant—Short Validity) visa held concurrently with the permanent visa); or

(ii) a bridging visa.

(3) The applicant meets the requirements of this subclause if the applicant is outside Australia, and the Minister is satisfied that the applicant has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia, and the applicant:

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(a) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence, and the applicant:
  (i) holds a permanent visa; or
  (ii) last departed Australia as an Australian permanent resident; or
  (iii) last departed Australia as an Australian citizen, but has subsequently lost or renounced Australian citizenship; or

(b) was an Australian citizen, or an Australian permanent resident, less than 10 years before the application, and has not been absent from Australia for a period of, or periods that total, more than 5 years in the period from the date that the applicant last departed Australia as an Australian citizen or Australian permanent resident to the date of the application, unless there are compelling reasons for the absence.

(3A) The applicant meets the requirements of this subclause if the applicant is in Australia, and the Minister is satisfied that the applicant:
(a) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and
(b) has not been absent from Australia for a continuous period of 5 years or more since:
  (i) the date of grant of the applicant's most recent permanent visa, unless there are compelling reasons for the absence; or
  (ii) the date on which the applicant ceased to be a citizen, unless there are compelling reasons for the absence.

(4) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:
(a) has been granted a Subclass 155 visa and that visa is still in effect; or
(b) meets the requirements of subclause (2), (3) or (3A) and has lodged a separate application for a Return (Residence) (Class BB) visa.

Note: Under clause 155.511:
(a) if the applicant is a member of the family unit of a person whose Subclass 155 visa will be in effect for one year or less, the applicant will be granted a visa permitting the holder to travel to and enter Australia for the period of effect; and
(b) if the applicant is a member of the family unit of a person whose Subclass 155 visa will be in effect for more than one year, the applicant will be granted a visa permitting the holder to travel to and enter Australia for one year from the date of grant.

155.22—Criteria to be satisfied at time of decision

155.221

If the applicant is outside Australia, the applicant satisfies special return criterion 5001.

155.222

The applicant satisfies public interest criterion 4021.

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Clause 155.411

155.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

155.4—Circumstances applicable to grant

155.411

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

155.5—When visa is in effect

155.511

Permanent visa permitting the holder to travel to and enter Australia for:

(a) if:
  (i) subclause 155.212(4) applies to the applicant; and
  (ii) the period of the Subclass 155 visa mentioned in that subclause is one year or less;

  the period of the Subclass 155 visa; or

(aa) if:
  (i) subclause 155.212(4) applies to the applicant; and
  (ii) the period of the Subclass 155 visa mentioned in that subclause is more than one year;

  one year; or

(b) if the applicant met the requirements of clause 155.211 and subclause 155.212(2) at the time of application—a period of 5 years from the date of grant; or

(c) in any other case:
  (i) a period of one year from the date of the grant; or
  (ii) a shorter period determined by the Minister.

155.6—Conditions: Nil.

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Subclass 157—Three Month Resident Return

157.1—Interpretation

Note: ***Australian permanent resident*** is defined in regulation 1.03.

157.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

157.21—Criteria to be satisfied at time of application

157.211

The applicant:

(a) is an Australian permanent resident; or

(b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or

(c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.

157.212

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

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

(a) was lawfully present in Australia for a period of, or periods that total, not less than 1 day but less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:

(i) was:

(A) the holder of a permanent visa; or

(B) an Australian citizen; and

(ii) was not the holder of:

(A) a temporary visa (other than a Subclass 601 (Electronic Travel Authority) visa, a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant—Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant—Short Validity) visa held concurrently with the permanent visa); or

(B) a bridging visa; and

(b) either:

(i) has compelling and compassionate reasons for departing Australia; or

(ii) if outside Australia, had compelling and compassionate reasons for his or her last departure from Australia.

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(3) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:
  (a) has been granted a Subclass 157 visa and that visa is still in effect; or
  (b) meets the requirements of subclause (2) and has lodged a separate application for a Return (Residence) (Class BB) visa.

157.213

If the applicant is outside Australia, the applicant has not been absent from Australia for a continuous period of more than 3 months immediately before making the application for the visa, unless the Minister is satisfied that there are compelling and compassionate reasons for the absence.

157.22—Criteria to be satisfied at time of decision

157.221

If the applicant is outside Australia, the applicant satisfies special return criterion 5001.

157.222

The applicant satisfies public interest criterion 4021.

157.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

157.4—Circumstances applicable to grant

157.411

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

157.5—When visa is in effect

157.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 3 months from the date of grant.

157.6—Conditions: Nil.

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Subclass 173—Contributory Parent (Temporary)

173.1—Interpretation

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

173.2—Primary criteria

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

173.21—Criteria to be satisfied at time of application

173.211

The applicant is a parent of a person (the child) who is:

(a) a settled Australian citizen; or

(b) a settled Australian permanent resident; or

(c) a settled eligible New Zealand citizen.

173.212

(1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:

(a) the child; or

(b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

(a) the child's cohabiting spouse, if that spouse:

(i) has turned 18; and

(ii) is:

(A) a settled Australian citizen; or

(B) a settled Australian permanent resident; or

(C) a settled eligible New Zealand citizen; or

(b) a person who:

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(i) is a relative or guardian of the child; and
(ii) has turned 18; and
(iii) is:
(A) a settled Australian citizen; or
(B) a settled Australian permanent resident; or
(C) a settled eligible New Zealand citizen; or

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

(d) a community organisation.

173.213

The applicant satisfies the balance of family test.

173.22—Criteria to be satisfied at time of decision

173.221

The applicant continues to satisfy the criterion in clause 173.211.

173.222

A sponsorship of the kind mentioned in clause 173.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 173.212.

173.224

The applicant:

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

173.225

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

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173.226

Each member of the family unit of the applicant who is an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

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

173.227

Each member of the family unit of the applicant who is not an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:

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

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

173.228

If a person (the additional applicant):

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

(b) has not turned 18; and

(c) made a combined application with the applicant;

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

173.229

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

173.3—Secondary criteria

173.31—Criteria to be satisfied at time of application

173.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 173.21.

173.312

A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:

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

173.32—Criteria to be satisfied at time of decision

173.321

Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa.

173.322

A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:
(a) is in force; and
(b) includes sponsorship of the applicant;
whether or not the sponsor was the sponsor at the time of application.

173.322A

A contributory parent newborn child is taken to be sponsored if:
(a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 143.212(4); or
(b) the following criteria apply in relation to the contributory parent newborn child's parent:
  (i) the parent is the holder of a Subclass 143 (Contributory Parent) visa at the time of the contributory parent newborn child's application;
  (ii) the person who sponsored the parent for the Subclass 143 (Contributory Parent) visa has died; or
(c) the following criteria apply in relation to the contributory parent newborn child's parent:
  (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
    (A) a Subclass 173 (Contributory Parent (Temporary)) visa; or
    (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa;
  (ii) the person who sponsored the parent for the Subclass 173 (Contributory Parent (Temporary)) visa has died.

173.323

If the applicant is not a contributory parent newborn child, the applicant:
(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

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

173.324

If the applicant:

(a) is not a contributory parent newborn child; and

(b) has previously been in Australia;

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

173.325

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

173.326

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

173.327

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

173.328

The applicant satisfies public interest criteria 4020 and 4021.

173.4—Circumstances applicable to grant

173.411

(1) Unless:

(a) the applicant is a contributory parent newborn child; or

(b) subclause (2) of this clause applies to the visa;

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

(2) This subclause applies to a visa if:

(a) the application for the visa was made before 24 March 2021; and

(b) the applicant for the visa was in Australia on 24 March 2021; and

(c) the visa is granted after 23 March 2021; and

(d) the visa is granted before the end of the concession period described in subregulation 1.15N(1); and

(e) the applicant for the visa is in Australia, but not in immigration clearance, when the visa is granted.

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

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173.412

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

173.5—When visa is in effect

173.511

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

173.512

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

173.6—Conditions

173.611

First entry must be made before a date specified by the Minister for the purpose.

173.612

Either or both of conditions 8502 and 8515 may be imposed.

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Subclass 186—Employer Nomination Scheme

186.1—Interpretation

186.111

In this Part:

application for approval means an application under regulation 5.19 for approval of the nomination of a position.

occupation means the occupation that would be carried out by a person who is employed in a position.

Note 1: For ***labour agreement*** and ***regional provisional visa*** and ***relevant assessing authority***: see regulation 1.03.

Note 2: Regulation 1.03 provides that ***competent English*** has the meaning set out in regulation 1.15C.

186.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 186 visa include criteria set out in streams.

If an applicant applies for a Subclass 186 visa in the Temporary Residence Transition stream, the criteria in Subdivisions 186.21 and 186.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 186 visa in the Direct Entry stream, the criteria in Subdivisions 186.21 and 186.23 are the primary criteria.

If an applicant applies for a Subclass 186 visa in the Labour Agreement stream, the criteria in Subdivisions 186.21 and 186.24 are the primary criteria.

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

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

186.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 186 visa.

186.211

If it is mandatory, in the State or Territory in which the position to which the application relates is located, that a person:

(a) hold a licence of a particular kind; or

(b) hold registration of a particular kind; or

(c) be a member (or a member of a particular kind) of a particular professional body;

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to perform tasks of the kind to be performed in the occupation to which a position relates, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body, at the time of application.

186.212

The position to which the application relates will provide to the applicant the employment referred to in the application for approval.

186.212A

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

186.213

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

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

(3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.

(4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 186 visa.

(5) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and

(b) the relevant person is an applicant for a Subclass 186 visa; and

(c) the Minister is satisfied that:

(i) the relevant person; or

(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or

(iii) a dependent child of the relevant person or of the primary applicant;

has experienced family violence committed by the primary applicant.

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

(6) This subclause covers a person if:

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(a) the person is an applicant for a Subclass 186 visa; and
(b) the person is a member of the family unit of a person covered by subclause (5).

(7) Each person:
(a) who either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 186 visa; or
(ii) is covered by subclause (5) or (6); and
(b) who had turned 18 at the time of the primary applicant's application;
satisfies public interest criterion 4019.

(8) If a person:
(a) either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 186 visa; or
(ii) is covered by subclause (5) or (6); and
(b) has not turned 18;
public interest criteria 4015 and 4016 are satisfied in relation to the person.

(9) Each person:
(a) who is a member of the family unit of the primary applicant; and
(b) who is not an applicant for a Subclass 186 visa;
satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:
(a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) who is a member of the family unit of a person who is covered by subclause (5); and
(c) who is not an applicant for a Subclass 186 visa;
satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

186.214

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

(2) Each person covered by subclause 186.213(4), (5) or (6) satisfies special return criteria 5001, 5002 and 5010.

186.22—Criteria for Temporary Residence Transition stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Temporary Residence Transition stream.

186.221

At the time of application, the applicant:

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(a) had not turned 45; or
(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.222

At the time of application, the applicant:
(a) had competent English; or
(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

186.223

(1) The position to which the application relates is the position:
(a) nominated in an application for approval that:
(i) identifies the applicant in relation to the position; and
(ii) is made in relation to a visa in a Temporary Residence Transition stream; and
(c) in relation to which the declaration mentioned in paragraph 1114B(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The Minister has approved the nomination.

(3) The nomination has not subsequently been withdrawn.

(3A) Either:
(a) there is no adverse information known to Immigration about the person who made the nomination or a person associated with that person; or
(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination or a person associated with that person.

(4) The position is still available to the applicant.

(5) The application for the visa is made no more than 6 months after the Minister approved the nomination.

186.224

(1) The applicant satisfies public interest criterion 4007.

(2) Each person covered by subclause 186.213(4), (5) or (6) satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:

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(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and
(b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and
(c) who is not an applicant for a Subclass 186 visa;

satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

186.225

If the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the occupation to which the position relates, the applicant demonstrates that he or she has those skills in the manner specified by the Minister.

186.226

(1) During the period of 3 years immediately before the application for the visa is made, the applicant held one or more of the following for a total period of at least 2 years:
(a) a Subclass 457 (Temporary Work (Skilled)) visa;
(b) a Subclass 482 (Temporary Skill Shortage) visa;
(c) a Subclass 482 (Skills in Demand) visa;
(d) if the last substantive visa held by the applicant was a visa mentioned in paragraph (a), (b) or (c)—a bridging visa granted on the basis that the person was an applicant for a visa mentioned in paragraph (a), (b) or (c), a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa.

(2) The Minister may, by legislative instrument, specify different periods of time for the purposes of subclause (1) for persons specified in the instrument.

186.227

(1) Subject to subclause (2), during the period of 3 years immediately before the application for the visa is made, the applicant was employed by an approved work sponsor in an occupation in relation to which the visa, or visas, mentioned in paragraph 186.226(1)(a), (b) or (c) were granted:
(a) for a total period of at least 2 years (not including any periods of unpaid leave); and
(b) on a full-time basis, with the employment being undertaken in Australia.

(2) If the visa, or visas, mentioned in paragraph 186.226(1)(a), (b) or (c) 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 applicant was employed by an approved work sponsor in the occupation for a total period of at least 2 years (not including any period of unpaid leave).

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Clause 186.231

(3) The Minister may, by legislative instrument, specify different periods of time for the purposes of subclauses (1) and (2) for persons specified in the instrument.

186.23—Criteria for Direct Entry stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Direct Entry stream.

186.231

At the time of application, the applicant:

(a) had not turned 45; or

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

186.232

At the time of application, the applicant:

(a) had competent English; or

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

186.232A

(1) If, at the time of application:

(a) the applicant held a regional provisional visa; or

(b) the last substantive visa held by the applicant was a regional provisional visa;

the applicant must have held the visa for at least 3 years at the time of application unless circumstances specified in an instrument under subclause (2) exist.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

186.233

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that:

(i) identifies the applicant in relation to the position; and

(ii) is made in relation to a visa in a Direct Entry stream; and

(iii) seeks to meet the requirements of subregulation 5.19(10); and

(b) in relation to which the declaration mentioned in paragraph 1114B(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The person who will employ the applicant is the person who made the nomination.

(3) The Minister has approved the nomination.

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(4) The nomination has not subsequently been withdrawn.

(4A) Either:

(a) there is no adverse information known to Immigration about the person who made the nomination or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination or a person associated with that person.

(5) The position is still available to the applicant.

(6) The application for the visa is made not more than 6 months after the Minister approved the nomination.

186.234

(1) At the time of application, subclause (2) or (3) applies.

(2) All of the following apply:

(a) the relevant assessing authority for the occupation has assessed the applicant's skills as suitable for the occupation;

(aa) the assessment was not for a Subclass 485 (Temporary Graduate) visa;

(ab) if the assessment specifies a period during which the assessment is valid, and the period does not end more than 3 years after the date of the assessment—the period has not ended;

(ac) if paragraph (ab) does not apply—not more than 3 years have passed since the date of the assessment;

(b) the applicant has been employed in the occupation for at least 3 years on a full-time basis and at the level of skill required for the occupation.

(3) The applicant is a person in a class of persons specified by the Minister in an instrument in writing for this subclause.

186.235

(1) The applicant satisfies public interest criterion 4005.

(2) Each person covered by subclause 186.213(4), (5) or (6) satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:

(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and

(b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and

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(c) who is not an applicant for a Subclass 186 visa;

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

186.24—Criteria for Labour Agreement stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 186 visa in the Labour Agreement stream.

186.241

Either:

(a) the applicant had not turned 45 at the time of application; or

(b) the applicant has not reached the age specified by the Minister in a labour agreement:

(i) that is in effect; and

(ii) to which the employer is a party; and

(iii) under which the position to which the application relates is nominated.

186.241A

(1) If, at the time of application:

(a) the applicant held a regional provisional visa; or

(b) the last substantive visa held by the applicant was a regional provisional visa;

the applicant must have held the visa, at the time of application, for at least:

(c) 3 years unless circumstances specified in the instrument under subclause (2) exist; or

(d) if the Minister has specified a lesser period in the labour agreement mentioned in paragraph 186.241(b)—that specified period.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of paragraph (1)(c).

186.242

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that:

(i) identifies the applicant in relation to the position; and

(ii) is made in relation to a visa in a Labour Agreement stream; and

(b) identified in the application for the grant of the visa.

(3) The Minister has approved the nomination.

(4) The nomination has not subsequently been withdrawn.

(4A) Either:

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(a) there is no adverse information known to Immigration about the employer who made the nomination or a person associated with the employer; or

(b) it is reasonable to disregard any adverse information known to Immigration about the employer who made the nomination or a person associated with the employer.

(5) The position is still available to the applicant.

(6) The terms and conditions of employment applicable to the position will be no less favourable than the terms and conditions that:

(a) are provided; or

(b) would be provided;

to an Australian citizen or an Australian permanent resident for performing equivalent work in the workplace to which the application relates at the same location.

186.243

(1) The applicant has the qualifications, experience and other attributes (if any) specified by the Minister in the labour agreement mentioned in paragraph 186.241(b):

(a) for the occupation to which the position relates; and

(b) for the visa.

(2) The applicant satisfies any language test requirements (if any) specified by the Minister in the labour agreement mentioned in paragraph 186.241(b):

(a) for the occupation to which the position relates; and

(b) for the visa.

(3) The applicant demonstrates their English language proficiency in the manner (if any) specified by the Minister in the labour agreement mentioned in paragraph 186.241(b):

(a) for the occupation to which the position relates; and

(b) for the visa.

(4) The applicant demonstrates that they have the skills that are necessary to perform the tasks of the occupation to which the position relates in the manner (if any) specified by the Minister in the labour agreement mentioned in paragraph 186.241(b):

(a) for the occupation to which the position relates; and

(b) for the visa.

(5) If a manner specified in the labour agreement for the purposes of subclause (4) is that the applicant's skills must be assessed as suitable for the occupation to which the position relates, all of the following apply:

(a) the applicant's skills have been assessed as suitable by:

(i) if there is a relevant assessing authority for the occupation—the relevant assessing authority for the occupation; or

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(ii) otherwise—the person or body specified by the Minister in the labour agreement for the occupation;

(b) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period has not ended;

(c) if paragraph (b) does not apply—not more than 3 years have passed since the date of the assessment.

186.244

(1) The applicant satisfies public interest criterion 4005.

(2) Each person covered by subclause 186.213(4), (5) or (6) satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:

(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and

(b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and

(c) who is not an applicant for a Subclass 186 visa;

satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

186.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

186.31—Criteria

186.311

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

(2) The applicant:

(a) is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 186 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with the primary applicant.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy

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the primary criteria for the grant of a Subclass 186 visa, and the primary applicant has since been granted that visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 186 visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made; and

(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 186 visa has since been granted to the secondary applicant.

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

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Clause 186.312A

186.312A

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

186.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

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

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If:

(a) the primary applicant mentioned in clause 186.311 in relation to the applicant holds a Subclass 186 visa in the Temporary Residence Transition stream; or

(b) at the time of the application, the primary applicant mentioned in clause 186.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 186 visa in the Temporary Residence Transition stream;

the applicant satisfies public interest criterion 4007.

(5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

186.314

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

186.315

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 186.311(4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies:

(a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020; and

(b) special return criteria 5001, 5002 and 5010.

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(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa and who has not turned 18 at the time of application.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

Temporary Residence Transition stream

(6) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Temporary Residence Transition stream at the time of application:

(a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4007; and

(b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Direct Entry stream

(7) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Direct Entry stream at the time of application:

(a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005; and

(b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Labour Agreement stream

(8) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Labour Agreement stream at the time of application:

(a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005; and

(b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

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Clause 186.411

186.4—Circumstances applicable to grant

186.411

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

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

186.5—When visa is in effect

186.511

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

186.6—Conditions

186.611

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

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

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

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Subclass 187—Regional Sponsored Migration Scheme

187.1—Interpretation

187.111

In this Part:

application for approval means an application under regulation 5.19 for approval of the nomination of a position.

occupation means the occupation that would be carried out by a person who is employed in a position.

regional Australia has the meaning given by subregulation 5.19(16).

Note 1: For ***ANZSCO*** and ***labour agreement***: see regulation 1.03.

Note 2: Regulation 1.03 provides that ***competent English*** has the meaning set out in regulation 1.15C.

187.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 187 visa include criteria set out in streams.

If an applicant applies for a Subclass 187 visa in the Temporary Residence Transition stream, the criteria in Subdivisions 187.21 and 187.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 187 visa in the Direct Entry stream, the criteria in Subdivisions 187.21 and 187.23 are the primary criteria.

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

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

187.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 187 visa.

187.211

If it is mandatory, in the State or Territory in which the position to which the application relates is located, that a person:

(a) hold a licence of a particular kind; or

(b) hold registration of a particular kind; or

(c) be a member (or a member of a particular kind) of a particular professional body;

to perform tasks of the kind to be performed in the occupation to which a position relates, the applicant is, or is eligible to become, the holder of the

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licence, the holder of the registration, or a member of the body, at the time of application.

187.212

The position to which the application relates will provide to the applicant the employment referred to in the application for approval.

187.212A

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

187.213

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

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

(3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.

(4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 187 visa.

(5) This subclause covers a person (the ***relevant person***) if:

(a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and

(b) the relevant person is an applicant for a Subclass 187 visa; and

(c) the Minister is satisfied that:

(i) the relevant person; or

(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or

(iii) a dependent child of the relevant person or of the primary applicant;

has experienced family violence committed by the primary applicant.

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

(6) This subclause covers a person if:

(a) the person is an applicant for a Subclass 187 visa; and

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(b) the person is a member of the family unit of a person covered by subclause (5).

(7) Each person:
(a) who either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 187 visa; or
(ii) is covered by subclause (5) or (6); and
(b) who had turned 18 at the time of the primary applicant's application;
satisfies public interest criterion 4019.

(8) If a person:
(a) either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 187 visa; or
(ii) is covered by subclause (5) or (6); and
(b) has not turned 18;
public interest criteria 4015 and 4016 are satisfied in relation to the person.

(9) Each person:
(a) who is a member of the family unit of the primary applicant; and
(b) who is not an applicant for a Subclass 187 visa;
satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:
(a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) who is a member of the family unit of a person who is covered by subclause (5); and
(c) who is not an applicant for a Subclass 187 visa;
satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

187.214

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

(2) Each person covered by subclause 187.213(4), (5) or (6) satisfies special return criteria 5001, 5002 and 5010.

187.22—Criteria for Temporary Residence Transition stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 187 visa in the Temporary Residence Transition stream.

187.221

At the time of application, the applicant:
(a) had not turned 45; or

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

187.222

At the time of application, the applicant:

(a) had competent English; or

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

187.223

(1) The position to which the application relates is the position:

(a) nominated in an application for approval that:

(i) identifies the applicant in relation to the position; and

(ii) is made in relation to a visa in the Temporary Residence Transition stream; and

(c) in relation to which the declaration mentioned in paragraph 1114C(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The Minister has approved the nomination.

(3) The nomination has not subsequently been withdrawn.

(3A) Either:

(a) there is no adverse information known to Immigration about the person who made the nomination or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination or a person associated with that person.

(4) The position to which the application relates is located in regional Australia.

(5) The position is still available to the applicant.

(6) The application for the visa is made no more than 6 months after the Minister approved the nomination.

187.224

(1) The applicant satisfies public interest criterion 4007.

(2) Each person covered by subclause 187.213(4), (5) or (6) satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:

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(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
(b) who is a member of the family unit of an applicant who is covered by subclause 187.213(5) or (6); and
(c) who is not an applicant for a Subclass 187 visa;

satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

187.225

If the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the occupation to which the position relates, the applicant demonstrates that he or she has those skills in the manner specified by the Minister.

187.23—Criteria for Direct Entry stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 187 visa in the Direct Entry stream.

187.231

At the time of application, the applicant:
(a) had not turned 45; or
(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.232

At the time of application, the applicant:
(a) had competent English; or
(b) was a person in a class of persons specified by the Minister in an instrument in writing for this paragraph.

187.233

(1) The position to which the application relates is the position:
(a) nominated in an application for approval that:
(i) identifies the applicant in relation to the position; and
(ii) is made in relation to a visa in a Direct Entry stream; and
(iii) seeks to meet the requirements of subregulation 5.19(12); and
(b) in relation to which the declaration mentioned in paragraph 1114C(3)(d) of Schedule 1 was made in the application for the grant of the visa.

(2) The person who will employ the applicant is the person who made the nomination.

(3) The Minister has approved the nomination.

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(4) The nomination has not subsequently been withdrawn.

(4A) Either:

(a) there is no adverse information known to Immigration about the person who made the nomination or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination or a person associated with that person.

(5) The position is still available to the applicant.

(6) The application for the visa is made no more than 6 months after the Minister approved the nomination.

187.234

At the time of application:

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

(b) all of the following requirements were met:

(i) the applicant's occupation is specified by the Minister in an instrument in writing for this subparagraph;

(ii) the applicant did not obtain the necessary qualification in Australia;

(iii) the applicant's skills had been assessed as suitable for the occupation by an assessing authority specified by the Minister in the instrument for subparagraph (i) as the assessing authority for the occupation;

(iv) the assessment was not for a Subclass 485 (Temporary Graduate) visa;

(v) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended;

(vi) if subparagraph (v) did not apply—not more than 3 years had passed since the date of the assessment;

(vii) the applicant has been employed in the occupation for at least 3 years on a full-time basis and at the level of skill required for the occupation; or

(c) all of the following requirements were met:

(i) the applicant's occupation was not specified by the Minister in an instrument in writing for subparagraph (b)(i), or the applicant obtained the necessary qualification in Australia;

(ii) the applicant had the qualifications listed in ANZSCO as being necessary to perform the tasks of the occupation;

(iii) the applicant has been employed in the occupation for at least 3 years on a full-time basis and at the level of skill required for the occupation.

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187.235

(1) The applicant satisfies public interest criterion 4005.

(2) Each person covered by subclause 187.213(4), (5) or (6) satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:
   (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
   (b) who is a member of the family unit of an applicant covered by subclause 187.213(5) or (6); and
   (c) who is not an applicant for a Subclass 187 visa;

satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

187.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

187.31—Criteria

187.311

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

(2) The applicant:
   (a) is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 187 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
   (b) made a combined application with the primary applicant.

(3) The applicant meets the requirements of this subclause if:
   (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 187 visa, and the primary applicant has since been granted that visa; and
   (b) the relationship between the primary applicant and the applicant has ceased; and
   (c) one or more of the following:
      (i) the applicant;
      (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

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(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 187 visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made; and

(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 187 visa has since been granted to the secondary applicant.

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

187.312

If:

(a) the applicant meets the requirements of subclause 187.311(2); and

(b) a nomination mentioned in paragraph 1114C(3)(d) of Schedule 1 is approved in respect of the primary applicant mentioned in subclause 187.311(2);

the nomination includes the applicant.

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187.312A

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

187.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

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

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If:

(a) the primary applicant mentioned in clause 187.311 in relation to the applicant holds a Subclass 187 visa in the Temporary Residence Transition stream; or

(b) at the time of the application, the primary applicant mentioned in clause 187.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 187 visa in the Temporary Residence Transition stream;

the applicant satisfies public interest criterion 4007.

(5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

187.314

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

187.315

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 187.311(4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies:

(a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020; and

(b) special return criteria 5001, 5002 and 5010.

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(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa and who has not turned 18 at the time of application.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

Temporary Residence Transition stream

(6) If the primary applicant mentioned in clause 187.311 was seeking to satisfy the criteria for a Subclass 187 visa in the Temporary Residence Transition stream at the time of application:

(a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4007; and

(b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Direct Entry stream

(7) If the primary applicant mentioned in clause 187.311 was seeking to satisfy the criteria for a Subclass 187 visa in the Direct Entry stream at the time of application:

(a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4005; and

(b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

187.4—Circumstances applicable to grant

187.411

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

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

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187.5—When visa is in effect

187.511

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

187.6—Conditions

187.611

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

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

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

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Subclass 188—Business Innovation and Investment (Provisional)

188.1—Interpretation

188.111

In this Part:

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

188.112

In this Part, each of the following is an eligible investment if a person owns it for the purpose of producing a return in the form of income or capital gain, and not for personal use:

(a) an ownership interest in a business;
(b) cash on deposit;
(c) stocks or bonds;
(d) real estate;
(e) gold or silver bullion.

188.113

In this Part, a loan to a business is an ***eligible investment*** if a person makes it for the purpose of producing a return in the form of income or capital gain.

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

Note 2: Regulation 1.03 also provides as follows:
(a) ***competent English*** has the meaning given by regulation 1.15C;
(b) ***complying entrepreneur activity*** is defined in regulation 5.19E;
(c) ***complying investment*** is defined in regulation 5.19B;
(d) ***complying significant investment*** is defined in regulation 5.19C;
(f) ***main business*** has the meaning set out in regulation 1.11;
(g) ***member of the family unit*** has the meaning set out in regulation 1.12.

Note 3: For the beneficial ownership of an asset, eligible investment or ownership interest, see regulation 1.11A.

188.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 188 visa include criteria set out in streams.

If an applicant applies for a Subclass 188 visa in the Business Innovation stream, the criteria in Subdivisions 188.21 and 188.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 188 visa in the Business Innovation Extension stream, the criteria in Subdivisions 188.21 and 188.23 are the primary criteria.

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If an applicant applies for a Subclass 188 visa in the Investor stream, the criteria in Subdivisions 188.21 and 188.24 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Significant Investor stream, the criteria in Subdivisions 188.21 and 188.25 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Significant Investor Extension stream, the criteria in Subdivisions 188.21 and 188.26 are the primary criteria.

If an applicant applies for a Subclass 188 visa in the Entrepreneur stream, the criteria in Subdivisions 188.21 and 188.28 are the primary criteria.

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

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

188.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 188 visa.

188.211

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

188.212

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

188.212A

(1) If, at the time of application:
   (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
   (b) 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 at the time of application unless circumstances specified in an instrument under subclause (2) exist.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

188.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

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

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.

(4) Each member of the family unit of the applicant who:
(a) is an applicant for a Subclass 188 visa; and
(b) had turned 18 at the time of application;
satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:
(a) is an applicant for a Subclass 188 visa; and
(b) has not turned 18;
satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

188.214

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

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies special return criteria 5001, 5002 and 5010.

188.22—Criteria for Business Innovation stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Business Innovation stream.

188.221

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

(2) The applicant:
(a) had not turned 55 at the time of the invitation to apply for the visa; or
(b) is proposing to establish or participate in business or investment activity that the nominating State or Territory government agency has determined is of exceptional economic benefit to the State or Territory in which the agency is located.

188.222

(1) The applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for this subclause.

(2) For subclause (1):

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(a) an applicant's score on the business innovation and investment points test is the sum of the applicant's scores under Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8, 7A.9 and 7A.10 of Schedule 7A; and
(b) the Minister must not give the applicant the prescribed number of points for more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8 and 7A.10 of Schedule 7A; and
(c) if the applicant's circumstances satisfy more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.5, 7A.7, 7A.8 and 7A.10 of Schedule 7A, the Minister must give the applicant points for the qualification that has been satisfied that attracts the highest number of points.

188.223

The applicant demonstrates that there is a need for the applicant to be resident in Australia to establish or conduct the proposed business activity.

188.224

The applicant has overall had a successful business career.

188.225

(1) For at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa, the applicant had an ownership interest in one or more established main businesses that had an annual turnover, in each of those years, of:
(a) if the time of invitation was before 1 July 2021—at least AUD500,000; or
(b) if the time of invitation was on or after 1 July 2021—at least AUD750,000.

(2) If the applicant was engaged in one or more businesses providing professional, technical or trade services for at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

188.226

At the time of invitation, the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, that can be applied to the establishment or conduct of a business in Australia have a net value of:
(a) if the time of invitation was before 1 July 2021—at least AUD800,000; or
(b) if the time of invitation was on or after 1 July 2021—at least AUD1,250,000.

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188.227

The nominating State or Territory government agency is satisfied that the net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, other than the business and personal assets mentioned in clause 188.226, is sufficient to allow the applicant and the spouse or de facto partner to settle in Australia.

188.228

The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

(a) are lawfully acquired; and

(b) are available for transfer to Australia within 2 years after the grant of a Subclass 188 visa.

188.229

(1) The applicant genuinely has a realistic commitment to:

(a) establish a qualifying business in Australia; or

(b) participate in an existing qualifying business in Australia.

(2) The applicant genuinely has a realistic commitment to:

(a) maintain a substantial ownership interest in the qualifying business mentioned in subclause (1); and

(b) maintain a direct and continuous involvement in the management of the qualifying business from day to day, and in the making of decisions that affect the overall direction and performance of the qualifying business, in a manner that benefits the Australian economy.

188.229A

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.23—Criteria for Business Innovation Extension stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Business Innovation Extension stream.

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188.231

The applicant demonstrates that there is a need for the applicant to be resident in Australia to operate the main business.

188.232

(1) Either:
  (a) for at least the 2 years immediately before the application was made, the applicant had an ownership interest in one or more main businesses that were actively operating in Australia; or
  (b) if the applicant holds or held a Subclass 188 visa in the Business Innovation stream (the ***innovation stream visa***) or a Subclass 188 visa in the Business Innovation Extension stream (the ***extension stream visa***) during a concession period and the innovation stream visa that the applicant holds or held was granted before 1 July 2019—the applicant had an ownership interest in one or more main businesses that were actively operating in Australia for a cumulative period of at least 2 years while the applicant was the holder of the innovation stream visa or the extension stream visa.

(2) The applicant continues to have the ownership interest mentioned in subclause (1).

188.233

The applicant genuinely has a realistic commitment to:
  (a) maintain the ownership interest mentioned in subclause 188.232(1); and
  (b) maintain a direct and continuous involvement in the management of the main business from day to day, and in the making of decisions that affect the overall direction and performance of the main business, in a manner that benefits the Australian economy.

188.234

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.24—Criteria for Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Investor stream.

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Clause 188.241

188.241

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

(2) The applicant:
  (a) had not turned 55 at the time of the invitation to apply for the visa; or
  (b) is proposing to establish or participate in business or investment activity that the nominating State or Territory government agency has determined is of exceptional economic benefit to the State or Territory in which the agency is located.

188.242

(1) The applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for this subclause.

(2) For subclause (1):
  (a) an applicant's score on the business innovation and investment points test is the sum of the applicant's scores under Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8, 7A.9 and 7A.10 of Schedule 7A; and
  (b) the Minister must not give the applicant the prescribed number of points for more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8 and 7A.10 of Schedule 7A; and
  (c) if the applicant's circumstances satisfy more than one prescribed qualification in Parts 7A.2, 7A.3, 7A.4, 7A.6, 7A.7, 7A.8 and 7A.10 of Schedule 7A, the Minister must give the applicant points for the qualification that has been satisfied that attracts the highest number of points.

188.243

(1) The applicant has overall had a successful record of eligible investment activity or qualifying business activity.

(2) The applicant has had a total of at least 3 years experience of direct involvement in managing one or more qualifying businesses or eligible investments.

(3) The applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.

188.244

(1) For at least one of the 5 fiscal years immediately before the time of invitation to apply for the visa:
  (a) both of the following apply:
    (i) the applicant maintained direct involvement in managing a qualifying business;

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(ii) the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had an ownership interest of at least 10% of the total value of the business; or

(b) subclause (2) applies.

(2) This subclause applies if:

(a) the applicant maintained direct involvement in managing eligible investments of the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together; and

(b) the total net value of the eligible investments was:

(i) if the time of invitation to apply for the visa was before 1 July 2021—at least AUD1,500,000; or

(ii) if the time of invitation to apply for the visa was on or after 1 July 2021—at least AUD2,500,000.

188.245

For the 2 fiscal years immediately before the time of invitation to apply for the visa, the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had a net value of:

(a) if the time of invitation was before 1 July 2021—at least AUD2,250,000; or

(b) if the time of invitation was on or after 1 July 2021—at least AUD2,500,000.

188.246

(1A) If the time of invitation to apply for the visa was before 1 July 2021, the requirements in subclauses (1) and (2) are met.

(1) The applicant has made a designated investment of at least AUD1 500 000 in the State or Territory in which the nominating State or Territory government agency is located, and has made the investment:

(a) in the name of the applicant; or

(b) in the names of the applicant and his or her spouse or de facto partner.

(2) The funds used to make the designated investment mentioned in subclause (1) were:

(a) unencumbered; and

(b) accumulated from either or both of:

(i) one or more qualifying businesses conducted by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together; and

(ii) eligible investment activities of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

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188.246A

(1) If the time of invitation to apply for the visa was on or after 1 July 2021, the requirements in subclauses (2), (3) and (4) are met.

(2) The applicant:
  (a) has made a complying significant investment of at least AUD2,500,000; and
  (b) has a genuine intention to hold the complying significant investment for the whole of the visa period.

(3) The funds used to make the complying significant investment mentioned in subclause (2) were accumulated from either or both of the following:
  (a) one or more qualifying businesses conducted by the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together;
  (b) eligible investment activities of the applicant, the applicant's spouse or de facto partner, or the applicant and the applicant's spouse or de facto partner together.

(4) The applicant has given the Minister:
  (a) evidence that the complying significant investment mentioned in subclause (2) complies with the requirements set out in regulation 5.19C as in force at the time of application; and
  (b) a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

Note: Approved form 1412 is a deed of acknowledgement, undertaking and release, signed by each person mentioned in paragraph (b), under which they:
  (a) acknowledge that they are responsible for their financial and legal affairs; and
  (b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying significant investment; and
  (c) release the Commonwealth from any liabilities in relation to any loss relating to the complying significant investment.

188.247

The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
  (a) are lawfully acquired; and
  (b) are available for transfer to Australia within 2 years after the grant of a Subclass 188 visa.

188.248

(1) The applicant genuinely has a realistic commitment to continue to maintain business or investment activity in Australia after:
  (a) if subclause 188.246(1) applies to the applicant—the designated investment mentioned in that subclause matures; or

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(b) if subclause 188.246A(2) applies to the applicant—the complying significant investment mentioned in that subclause matures.

(2) The applicant has a genuine intention to reside for at least 2 years in the State or Territory in which the nominating State or Territory government agency is located.

188.249

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.25—Criteria for Significant Investor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor stream.

188.251

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

188.252

(1) The applicant has made, on or after the time of application, a complying significant investment (within the meaning of regulation 5.19C as in force at the time of application) of at least AUD 5 000 000.

(2) If the time of invitation to apply for the visa was before 1 July 2021, the applicant has a genuine intention to hold the complying significant investment for at least 4 years.

(3) If the time of invitation to apply for the visa was on or after 1 July 2021, the applicant has a genuine intention to hold the complying significant investment for the whole of the visa period.

Note: A complying significant investment may be based on one or more investments.

188.253

(1) The applicant has given the Minister evidence that the investment complies with the requirements set out in regulation 5.19C as in force at the time of application.

(2) The applicant has given the Minister a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

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Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by each person mentioned in subclause (2), under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the complying significant investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the complying significant investment.

188.254

If the applicant was nominated by a State or Territory government agency, one or more of the following have a genuine intention to reside in the State or Territory whose government agency nominated the applicant:

(a) the applicant;

(b) the applicant's spouse or de facto partner.

188.255

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.26—Criteria for Significant Investor Extension stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Significant Investor Extension stream.

188.261

(1) The applicant meets the requirements of subclause (1A) or (1B).

(1A) Both of the following apply:

(a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made before 1 July 2015;

(b) the applicant continues to hold a complying investment within the meaning of regulation 5.19B as in force at the time the application mentioned in paragraph (a) was made.

(1B) Both of the following apply:

(a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made on or after 1 July 2015;

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(b) the applicant continues to hold a complying significant investment within the meaning of regulation 5.19C as in force at the time the application mentioned in paragraph (a) was made.

(2) For any part of the investment mentioned in subclause (1A) or (1B) for the applicant that is, or was, a direct investment in an Australian proprietary company:

(a) if the period of the direct investment was less than 2 years, the company was a qualifying business for the whole period; or

(b) if the period of the direct investment was 2 years or more, the company was a qualifying business for at least 2 years; or

(c) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.

(3) The applicant has given the Minister:

(a) if subclause (1A) applies to the applicant—a completed copy of approved form 1413 for each investment in a managed fund on which the investment mentioned in that subclause is based; or

(b) if subclause (1B) applies to the applicant—evidence that the applicant holds an investment as required for that subclause.

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

(4) The applicant has given the Minister a completed copy of approved form 1412, signed by the applicant and each other applicant aged at least 18.

Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by each person mentioned in subclause (4), under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the relevant investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the relevant investment.

188.262

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 188 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.28—Criteria for Entrepreneur stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 188 visa in the Entrepreneur stream.

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Clause 188.281

188.281

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

(2) Either:
  (a) the applicant had not turned 55 at the time of the invitation to apply for the visa; or
  (b) the nominating State or Territory government agency has determined that the complying entrepreneur activity the applicant is undertaking or proposing to undertake is, or will be, of exceptional economic benefit to the State or Territory in which the agency is located.

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

188.282

The applicant:
  (a) is undertaking, or proposing to undertake, a complying entrepreneur activity; and
  (ab) has a genuine intention to undertake, and continue to undertake, the complying entrepreneur activity in Australia; and
  (b) if the time of invitation to apply for the visa was before 1 July 2021, has a genuine intention to undertake, and continue to undertake, the complying entrepreneur activity in accordance with the agreement or agreements mentioned in paragraph 5.19E(3)(b) in relation to the activity.

188.283

The nominating State or Territory government agency is satisfied that the net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is sufficient to allow them to settle in Australia.

188.284

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the applicant's family unit who is an applicant for a Subclass 188 visa satisfies public interest criterion 4005.

(3) Each member of the applicant's family unit who is not an applicant for a Subclass 188 visa satisfies public interest criterion 4005, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

188.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

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188.31—Criteria

188.311

The applicant is a member of the family unit of a person who holds a Subclass 188 visa granted on the basis of satisfying the primary criteria for the grant of the visa (the primary applicant).

188.311A

(1) If:

(a) the applicant has turned 18; and

(b) the primary applicant holds a Subclass 188 visa in the Investor stream, the Significant Investor stream, the Significant Investor Extension stream or the Premium Investor stream;

the applicant has given the Minister a completed copy of approved form 1412.

Note: Approved form 1412 is a deed of acknowledgment, undertaking and release, signed by the primary applicant, and each other applicant aged at least 18 years, under which they:

(a) acknowledge that they are responsible for their financial and legal affairs; and

(b) undertake not to bring an action against the Commonwealth in relation to any loss relating to the relevant investment; and

(c) release the Commonwealth from any liabilities in relation to any loss relating to the relevant investment.

(2) Subclause (1) does not apply if the primary applicant:

(a) holds a Subclass 188 visa in the Investor stream; and

(b) was invited to apply for that visa before 1 July 2021.

188.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

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

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 188 visa in the Business Innovation stream, the Investor stream, the Significant Investor stream, the Premium Investor stream or the Entrepreneur stream, the applicant satisfies public interest criterion 4005.

(5) If the primary applicant holds a Subclass 188 visa in the Business Innovation Extension stream or the Significant Investor Extension stream, the applicant satisfies public interest criterion 4007.

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Clause 188.313

188.313

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

188.4—Circumstances applicable to grant

188.411

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

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

188.5—When visa is in effect

188.511

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Business Innovation stream, the Investor stream, the Significant Investor stream or the Entrepreneur stream, temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) if the time of invitation to apply for the visa was before 1 July 2021—for 4 years and 3 months from the date of grant; or

(b) if the time of invitation to apply for the visa was on or after 1 July 2021—for 5 years from the date of grant.

188.512

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Business Innovation Extension stream, temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) if:

(i) the last Subclass 188 visa held by the applicant was a Subclass 188 visa in the Business Innovation stream; and

(ii) the time of the invitation to apply for that visa was before 1 July 2021;

for 6 years after the date of the grant of that visa; or

(ab) if:

(i) the last Subclass 188 visa held by the applicant was a Subclass 188 visa in the Business Innovation stream; and

(ii) the time of the invitation to apply for that visa was on or after 1 July 2021;

for 7 years after the date of the grant of that visa; or

(b) if the last Subclass 188 visa held by the applicant was a Subclass 188 visa in the Business Innovation Extension stream—for 8 years after the date of the grant of the Subclass 188 visa in the Business Innovation stream.

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188.512A

If the applicant satisfied the primary criteria for the grant of a Subclass 188 visa in the Significant Investor Extension stream, temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) if:
  (i) the applicant held a Subclass 188 visa in the Significant Investor stream at the time of application; and
  (ii) the time of the invitation to apply for that visa was before 1 July 2021;
for 6 years after the date of the grant of that visa; or

(b) if:
  (i) the applicant held a Subclass 188 visa in the Significant Investor stream at the time of application; and
  (ii) the time of the invitation to apply for that visa was on or after 1 July 2021;
for 7 years after the date of the grant of that visa; or

(c) if:
  (i) the applicant held a Subclass 188 visa in the Significant Investor Extension stream at the time of application; and
  (ii) the time of the invitation to apply for the Subclass 188 visa in the Significant Investor stream held by the applicant was before 1 July 2021;
for 8 years after the date of the grant of the visa mentioned in subparagraph (ii); or

(d) if:
  (i) the applicant held a Subclass 188 visa in the Significant Investor Extension stream at the time of application; and
  (ii) the time of the invitation to apply for the Subclass 188 visa in the Significant Investor stream held by the applicant was on or after 1 July 2021;
for 9 years after the date of the grant of the visa mentioned in subparagraph (ii).

188.513

If the applicant satisfied the secondary criteria for the grant of a Subclass 188 visa, temporary visa permitting the holder to travel to, enter and remain in Australia until the day specified for the applicant who satisfied the primary criteria.

188.6—Conditions

188.611

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

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

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

188.611A

If a Subclass 188 visa in the Investor stream is granted to an applicant who was invited to apply for the visa on or after 1 July 2021, condition 8557 must be imposed.

188.612

If the applicant is granted a Subclass 188 visa in the Significant Investor stream or the Significant Investor Extension stream, condition 8557 must be imposed.

188.613

If the applicant is granted a Subclass 188 visa in the Entrepreneur stream, condition 8571 must be imposed.

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Subclass 189—Skilled—Independent

189.1—Interpretation

Note 1: For ***registered course***, ***relevant assessing authority*** and ***skilled occupation***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***competent English*** has the meaning set out in regulation 1.15C.

Note 3: There are no interpretation provisions specific to this Part.

189.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 189 visa include criteria set out in streams.

For a Subclass 189 visa in the Points-tested stream, the criteria in Subdivisions 189.21 and 189.22 are the primary criteria.

For a Subclass 189 visa in the New Zealand stream, the criteria in Subdivisions 189.21 and 189.23 are the primary criteria.

For a Subclass 189 visa in the Hong Kong stream, the criteria in Subdivisions 189.21 and 189.24 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a Subclass 189 visa need satisfy only the secondary criteria in Division 189.3.

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

189.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 189 visa.

189.211

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4020 and 4021.

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

(3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.

(4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 189 visa.

(5) This subclause covers a person (the ***relevant person***) if:
  (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
  (b) the relevant person is an applicant for a Subclass 189 visa; and
  (c) the Minister is satisfied that:

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(i) the relevant person; or
(ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
(iii) a dependent child of the relevant person or of the primary applicant;

has experienced family violence committed by the primary applicant.

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

(6) This subclause covers a person if:
(a) the person is an applicant for a Subclass 189 visa; and
(b) the person is a member of the family unit of a person covered by subclause (5).

(7) Each person:
(a) who either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 189 visa; or
(ii) is covered by subclause (5) or (6); and
(b) who had turned 18 at the time of the primary applicant's application;

satisfies public interest criterion 4019.

(8) If a person:
(a) either:
(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 189 visa; or
(ii) is covered by subclause (5); and
(b) has not turned 18;

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

(9) Each person:
(a) who is a member of the family unit of the primary applicant; and
(b) who is not an applicant for a Subclass 189 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:
(a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) who is a member of the family unit of a person who is covered by subclause (5); and
(c) who is not an applicant for a Subclass 189 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

189.212

(1) The applicant satisfies special return criteria 5001 and 5002.

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(2) Each person covered by subclause 189.211(4), (5) or (6) satisfies special return criteria 5001 and 5002.

189.22—Criteria for Points-tested stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 189 visa in the Points-tested stream.

189.221

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

189.222

(1) At the time of invitation to apply for the visa:
  (a) the relevant assessing authority for the applicant's nominated skilled occupation had assessed the applicant's skills as suitable for that occupation; and
  (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and
  (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and
  (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

189.223

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

189.224

(1) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6D of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

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189.224A

(1) If, at the time of application:
  (a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or
  (b) 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 at the time of application unless circumstances specified in an instrument under subclause (2) exist.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

189.225

(1) The applicant satisfies public interest criteria 4005 and 4010.

(2) Each person covered by subclause 189.211(4), (5) or (6) satisfies public interest criteria 4005 and 4010.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4005, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:
  (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
  (b) who is a member of the family unit of an applicant covered by subclause 189.211(5) or (6); and
  (c) who is not an applicant for a Subclass 189 visa;

satisfies public interest criterion 4005, unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

189.226

(1) The applicant satisfies special return criterion 5010.

(2) Each person covered by subclause 189.211(4), (5) or (6) satisfies special return criterion 5010.

189.23—Criteria for New Zealand stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 189 visa in the New Zealand stream.

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189.231B

The application is made before 10 December 2022.

189.24—Criteria for Hong Kong stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 189 visa in the Hong Kong stream.

189.241

The applicant complied substantially with the conditions to which the following visas were subject:

(a) the Subclass 457 (Temporary Work (Skilled)) visa, Subclass 482 (Temporary Skill Shortage) visa, Subclass 482 (Skills in Demand) visa or Subclass 485 (Temporary Graduate) visa held by the applicant at the time of application;

(b) any subsequent bridging visa held by the applicant.

189.242

The applicant had been usually resident in Australia for a continuous period of at least 4 years immediately before the date of the application.

189.243

(1) The applicant satisfies public interest criterion 4007.

(2) Each person covered by subclause 189.211(4), (5) or (6) satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4007, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:

(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and

(b) who is a member of the family unit of an applicant covered by subclause 189.211(5) or (6); and

(c) who is not an applicant for a Subclass 189 visa;

satisfies public interest criterion 4007, unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

189.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

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Clause 189.311

189.31—Criteria

189.311

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

(2) The applicant:
  (a) is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 189 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
  (b) made a combined application with the primary applicant.

(3) The applicant meets the requirements of this subclause if:
  (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 189 visa, and the primary applicant has since been granted that visa; and
  (b) the relationship between the primary applicant and the applicant has ceased; and
  (c) one or more of the following:
    (i) the applicant;
    (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
    (iii) a dependent child of the applicant or of the primary applicant;
  has experienced family violence committed by the primary applicant; and
  (d) the applicant:
    (i) was in Australia at the time the applicant's visa application was made; or
    (ii) entered Australia after the applicant's visa application was made.

(4) The applicant meets the requirements of this subclause if:
  (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 189 visa; and
  (b) the relationship between the primary applicant and the applicant has ceased; and
  (c) one or more of the following:
    (i) the applicant;
    (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
    (iii) a dependent child of the applicant or of the primary applicant;
  has experienced family violence committed by the primary applicant; and
  (d) the applicant:
    (i) was in Australia at the time the applicant's visa application was made; or
    (ii) entered Australia after the applicant's visa application was made; and

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(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 189 visa has since been granted to the secondary applicant.

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

189.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4020 and 4021.

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

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If:

(a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Points-tested stream; or

(b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Points-tested stream;

the applicant satisfies public interest criteria 4005 and 4010.

(5) If:

(a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Hong Kong stream; or

(b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Hong Kong stream;

the applicant satisfies public interest criterion 4007.

189.313

(1) If:

(a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Points-tested stream; or

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(b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Points-tested stream;

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

(2) If:

(a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Hong Kong stream; or

(b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Hong Kong stream;

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

(3) If:

(a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the New Zealand stream; or

(b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the New Zealand stream;

the applicant satisfies special return criteria 5001 and 5002.

189.314

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 189.311(4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies:

(a) public interest criteria 4001, 4002, 4003, 4003B, 4004 and 4020; and

(b) special return criteria 5001 and 5002.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa and who has not turned 18 at the time of application.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

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Points Tested stream

(6) If the primary applicant mentioned in clause 189.311 was seeking to satisfy the criteria for a Subclass 189 visa in the Points Tested stream at the time of application:
  (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies public interest criteria 4005 and 4010 and special return criterion 5010; and
  (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Hong Kong stream

(7) If the primary applicant mentioned in clause 189.311 was seeking to satisfy the criteria for a Subclass 189 visa in the Hong Kong stream at the time of application:
  (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies public interest criterion 4007; and
  (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

189.4—Circumstances applicable to grant

189.411

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

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

189.5—When visa is in effect

189.511

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

189.6—Conditions

189.611

If the applicant is outside Australia when the visa is granted:
(a) first entry must be made before the date specified by the Minister; and

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Clause 189.611

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

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Subclass 190—Skilled—Nominated

190.1—Interpretation

Note 1: For ***registered course***, ***relevant assessing authority*** and ***skilled occupation***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***competent English*** has the meaning set out in regulation 1.15C.

Note 3: There are no interpretation provisions specific to this Part.

190.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 190 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

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

190.21—Criteria

190.211

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

190.212

(1) At the time of invitation to apply for the visa:
  (a) the relevant assessing authority for the applicant's nominated skilled occupation had assessed the applicant's skills as suitable for that occupation; and
  (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and
  (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and
  (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

190.213

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

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Clause 190.214

190.214

(1) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6D of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

190.215

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

190.215A

(1) If, at the time of application:

(a) the applicant held a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(b) 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 at the time of application unless circumstances specified in an instrument under subclause (2) exist.

(2) The Minister may, by legislative instrument, specify circumstances for the purposes of subclause (1).

190.216

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

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

(3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.

(4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 190 visa.

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(5) This subclause covers a person (the ***relevant person***) if:
  (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
  (b) the relevant person is an applicant for a Subclass 190 visa; and
  (c) the Minister is satisfied that:
    (i) the relevant person; or
    (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
    (iii) a dependent child of the relevant person or of the primary applicant;

has experienced family violence committed by the primary applicant.

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

(6) This subclause covers a person if:
  (a) the person is an applicant for a Subclass 190 visa; and
  (b) the person is a member of the family unit of a person covered by subclause (5).

(7) Each person:
  (a) who either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 190 visa; or
    (ii) is covered by subclause (5) or (6); and
  (b) who had turned 18 at the time of the primary applicant's application;

satisfies public interest criterion 4019.

(8) If a person:
  (a) either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 190 visa; or
    (ii) is covered by subclause (5) or (6); and
  (b) has not turned 18;

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

(9) Each person:
  (a) who is a member of the family unit of the primary applicant; and
  (b) who is not an applicant for a Subclass 190 visa;

satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(10) Each person:
  (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and

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(b) who is a member of the family unit of a person who is covered by subclause (5); and

(c) who is not an applicant for a Subclass 190 visa;

satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

190.217

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

(2) Each person covered by subclause 190.216(4), (5) or (6) satisfies special return criteria 5001, 5002 and 5010.

190.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

190.31—Criteria

190.311

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

(2) The applicant:

(a) is a member of the family unit of a person who holds a Subclass 190 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with that person.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 190 visa, and the primary applicant has since been granted that visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made.

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(4) The applicant meets the requirements of this subclause if:
  (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 190 visa; and
  (b) the relationship between the primary applicant and the applicant has ceased; and
  (c) one or more of the following:
    (i) the applicant;
    (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
    (iii) a dependent child of the applicant or of the primary applicant;

  has experienced family violence committed by the primary applicant; and
  (d) the applicant:
    (i) was in Australia at the time the applicant's visa application was made; or
    (ii) entered Australia after the applicant's visa application was made; and
  (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

(5) The applicant meets the requirements of this subclause if:
  (a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and
  (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
  (c) a Subclass 190 visa has since been granted to the secondary applicant.

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

190.312

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

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

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

190.313

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

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Clause 190.314

190.314

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 190.311(4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa satisfies:
  (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and
  (b) special return criteria 5001, 5002 and 5010.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa and who has not turned 18 at the time of application.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 190 visa:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to that criterion.

190.4—Circumstances applicable to grant

190.411

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

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

190.5—When visa is in effect

190.511

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

190.6—Conditions

190.611

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

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Subclass 191—Permanent Residence (Skilled Regional)

191.1—Interpretation

191.111

In this Part:

income year has the meaning given by the *Income Tax Assessment Act 1997*.

relevant income year: an income year is a ***relevant income year*** for an applicant if:

(a) the income year ended before the date of application; and

(b) the applicant held a regional provisional visa for all or part of the income year.

taxable income has the meaning given by the *Income Tax Assessment Act 1997*.

Note: For ***regional provisional visa***, see regulation 1.03.

191.2—Primary criteria

Note 1: The primary criteria for the grant of a Subclass 191 visa include criteria set out in streams.

For a Subclass 191 visa in the Regional Provisional Visas stream, the criteria in Subdivisions 191.21 and 191.22 are the primary criteria.

For a Subclass 191 visa in the Hong Kong (Regional) stream, the criteria in Subdivisions 191.21 and 191.23 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a Subclass 191 visa need satisfy only the secondary criteria in Division 191.3.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

191.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 191 visa.

191.211

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021.

(2) If the primary applicant has turned 16 at the time of application, the primary applicant satisfies public interest criterion 4019.

(3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021.

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(4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 191 visa.

(5) This subclause covers a person (the ***relevant person***) if:
  (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
  (b) the relevant person is an applicant for a Subclass 191 visa; and
  (c) the Minister is satisfied that:
    (i) the relevant person; or
    (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
    (iii) a dependent child of the relevant person or of the primary applicant;

  has experienced family violence committed by the primary applicant.

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

(6) This subclause covers a person if:
  (a) the person is an applicant for a Subclass 191 visa; and
  (b) the person is a member of the family unit of a person covered by subclause (5).

(7) Each person:
  (a) who either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 191 visa; or
    (ii) is covered by subclause (5) or (6); and
  (b) who had turned 16 at the time of the primary applicant's application;

  satisfies public interest criterion 4019.

(8) If a person:
  (a) either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 191 visa; or
    (ii) is covered by subclause (5) or (6); and
  (b) has not turned 18;

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

(9) Each person:
  (a) who is a member of the family unit of the primary applicant; and
  (b) who is not an applicant for a Subclass 191 visa;

  satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(10) Each person:

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(a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
(b) who is a member of the family unit of a person who is covered by subclause (5); and
(c) who is not an applicant for a Subclass 191 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

191.212

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

(2) Each person covered by subclause 191.211(4), (5) or (6) satisfies special return criteria 5001, 5002 and 5010.

191.22—Criteria for Regional Provisional Visas stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 191 visa in the Regional Provisional Visas stream.

191.221

(1) The applicant complied substantially with the conditions (other than condition 8579) to which the following visas were subject:
(a) the regional provisional visa held by the applicant at the time of application;
(b) any subsequent bridging visa held by the applicant.

(2) The applicant complied with condition 8579 to which the regional provisional visa held by the applicant at the time of application was subject unless the applicant is included in a class of persons specified in an instrument under subclause (3).

(3) The Minister may, by legislative instrument, specify a class of persons for the purposes of subclause (2).

191.222

(1) The applicant has provided copies of notices of assessment, and any notices of amended assessments, given to the applicant under the *Income Tax Assessment Act 1936* in relation to 3 relevant income years for the applicant.

(2) The applicant's taxable income for each of those relevant income years is at least equal to the amount specified in an instrument under subclause (3) in relation to the applicant.

(3) The Minister may, by legislative instrument, specify an amount for the purposes of subclause (2) in relation to all applicants or different classes of applicants.

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(4) Subclause (1) is satisfied in relation to a copy of a notice even if the copy does not include the applicant's tax file number within the meaning of Part VA of the *Income Tax Assessment Act 1936*.

191.23—Criteria for Hong Kong (Regional) stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 191 visa in the Hong Kong (Regional) stream.

191.231

(1) The applicant complied substantially with the conditions to which the following visas were subject:
  (a) the Subclass 457 (Temporary Work (Skilled)) visa, Subclass 482 (Temporary Skill Shortage) visa, Subclass 482 (Skills in Demand) visa or Subclass 485 (Temporary Graduate) visa held by the applicant at the time of application;
  (b) any subsequent bridging visa held by the applicant.

(2) During the 3 years ending immediately before the date of application, the applicant did not live, work or study in a part of Australia that was not a designated regional area unless the applicant is included in a class of persons specified in an instrument under subclause (3).

(3) The Minister may, by legislative instrument, specify a class of persons for the purposes of subclause (2).

191.232

The applicant had been usually resident in Australia for a continuous period of at least 3 years immediately before the date of the application.

191.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

191.311

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

(2) The applicant:
  (a) is a member of the family unit of a person who holds a Subclass 191 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
  (b) made a combined application with that person.

(3) The applicant meets the requirements of this subclause if:
  (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy

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the primary criteria for the grant of a Subclass 191 visa, and the primary applicant has since been granted that visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 191 visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant;

has experienced family violence committed by the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made; and

(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 191 visa has since been granted to the secondary applicant.

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

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Clause 191.312

191.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021.

(2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

191.313

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

191.314

(1) The applicant complied substantially with the conditions (other than condition 8579) to which the following visas were subject:
  (a) any substantive visa held by the applicant at the time of application;
  (b) any subsequent bridging visa held by the applicant.

(2) If the applicant held a regional provisional visa at the time of application, the applicant complied with condition 8579 to which that visa was subject unless the applicant is included in a class of persons specified in an instrument under subclause (3).

(3) The Minister may, by legislative instrument, specify a class of persons for the purposes of subclause (2).

191.315

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 191.311(4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa satisfies:
  (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021; and
  (b) special return criteria 5001, 5002 and 5010.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa and who has turned 16 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa and who has not turned 18 at the time of application.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 191 visa:

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(a) satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004; and
(b) satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to that criterion.

191.4—Circumstances applicable to grant

191.411

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

191.5—When visa is in effect

191.511

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

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Subclass 192—Pacific Engagement

192.1—Interpretation

192.111

In this Part:

adverse employer information: see clause 192.112.

Note: For ***member of the family unit***: see regulation 1.03.

relevant medical practitioner means any of the following:

(a) a Medical Officer of the Commonwealth;

(b) a medical practitioner approved by the Minister for the purposes of this paragraph;

(c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

Note: For ***Medical Officer of the Commonwealth***, see regulation 1.03.

192.112

(1) In this Part, ***adverse employer information*** about a person or organisation (the ***employer***) is any adverse information relevant to the suitability of the employer to employ a person:

(a) who is an applicant for a Subclass 192 (Pacific Engagement) visa; or

(b) who is a spouse or de facto partner of, and has made a combined application with, a person who is an applicant for a Subclass 192 (Pacific Engagement) visa.

(2) Without limiting subclause (1), adverse employer information about an employer includes information that the employer:

(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 a relevant assessing authority a bogus document, or information that is false or misleading in a material particular.

(3) Nothing in this clause affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from

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the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

(4) In this clause:

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.

(5) The definition of ***adverse information*** in regulation 1.03 does not apply for the purposes of this clause.

192.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 192 visa include criteria set out in streams.

If an applicant applies for a Subclass 192 visa in the Pacific Engagement stream, the criteria in Subdivisions 192.21 and 192.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 192 visa in the Treaty stream, the criteria in Subdivisions 192.21 and 192.23 are the primary criteria for the grant of the visa.

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

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

192.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 192 visa.

192.211

The applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

192.212

(1) The applicant (the ***primary applicant***) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4019, 4020 and 4021.

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Clause 192.213

(2) Each person who is covered by subclause (3), (4) or (5) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

(3) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 192 visa.

(4) This subclause covers a person (the ***relevant person***) if:
  (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
  (b) the relevant person is an applicant for a Subclass 192 visa; and
  (c) the Minister is satisfied that one or more of the following has experienced family violence committed by the primary applicant:
    (i) the relevant person;
    (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant;
    (iii) a dependent child of the relevant person or of the primary applicant.

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

(5) This subclause covers a person if:
  (a) the person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
  (b) the person is an applicant for a Subclass 192 visa; and
  (c) the person is a member of the family unit of a person covered by subclause (4).

(6) Each person:
  (a) who either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 192 visa; or
    (ii) is covered by subclause (4) or (5); and
  (b) who had turned 18 at the time of the primary applicant's application;

satisfies public interest criterion 4019.

(7) If a person:
  (a) either:
    (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 192 visa; or
    (ii) is covered by subclause (4) or (5); and
  (b) has not turned 18;

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

192.213

Each person who is covered by subclause 192.212(3), (4) or (5) has complied substantially with the conditions (the ***previous visa conditions***) that apply or

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applied to the last of any substantive visas held by the person, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the person has complied substantially with that condition; and

(b) the Minister is satisfied that the person was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

192.214

(1) Each person:

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

(b) who is not an applicant for a Subclass 192 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(2) Each person:

(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and

(b) who is a member of the family unit of a person covered by subclause 192.212(4) or (5); and

(c) who is not an applicant for a Subclass 192 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

192.215

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

(2) Each person covered by subclause 192.212(3), (4) or (5) satisfies special return criteria 5001, 5002 and 5010.

192.22—Criteria for Pacific Engagement stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 192 visa in the Pacific Engagement stream.

192.221

(1) Either:

(a) the applicant; or

(b) if the applicant's spouse or de facto partner has made a combined application for a visa with the applicant—the applicant's spouse or de facto partner;

has a written offer of ongoing employment by a person (the ***employer***) or an associated entity of the employer for a position that is genuine and is in Australia.

(2) The employment conditions for the position that will apply to the applicant or the applicant's spouse or de facto partner are not less favourable than those that

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apply, or would apply, to an Australian citizen performing equivalent work at the same location.

(3) Either:
  (a) there is no adverse employer information known to Immigration about the employer, or a person associated with the employer; or
  (b) it is reasonable to disregard any adverse employer information known to Immigration about the employer, or a person associated with the employer.

Note: For the definition of ***adverse employer information***, see clause 192.112.

192.222

The applicant has adequate means, or access to adequate means, to support:
  (a) the applicant; and
  (b) each member of the family unit of the applicant who has made a combined application with the applicant;

during the period of the first 12 months in Australia as the holder of the visa.

192.223

If required by the Minister:
  (a) the applicant; or
  (b) if the applicant's spouse or de facto partner has made a combined application for a visa with the applicant—the applicant's spouse or de facto partner;

satisfies any English language test requirements specified by the Minister in a legislative instrument made for the purposes of this clause.

192.224

(1) The applicant satisfies public interest criterion 4007.

(2) Each person covered by subclause 192.212(3), (4) or (5) satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 192 visa satisfies public interest criterion 4007, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(4) Each person:
  (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
  (b) who is a member of the family unit of a person covered by subclause 192.212(4) or (5); and
  (c) who is not an applicant for a Subclass 192 visa;

satisfies public interest criterion 4007, unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

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192.23—Criteria for Treaty stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 192 visa in the Treaty stream.

192.231

The applicant has undergone a medical examination carried out by a relevant medical practitioner, unless a Medical Officer of the Commonwealth decides otherwise.

192.232

The applicant has undergone a chest x-ray examination conducted by a relevant medical practitioner, unless:

(a) a Medical Officer of the Commonwealth decides otherwise; or

(b) the applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or

(c) all of the following apply in relation to the applicant:

(i) the applicant is in Australia;

(ii) the applicant is confirmed by a relevant medical practitioner to be pregnant;

(iii) the applicant has signed an undertaking to place themselves under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment;

(iv) the Minister is satisfied that the applicant should not be required to undergo a chest x-ray examination at this time.

192.233

A relevant medical practitioner:

(a) has considered:

(i) the results of any tests carried out for the purposes of the medical examination required under clause 192.231 in respect of the applicant; and

(ii) the radiological report from any x-ray required under clause 192.232 in respect of the applicant; and

(b) if:

(i) the practitioner is not a Medical Officer of the Commonwealth; and

(ii) the practitioner considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

has referred any relevant results and reports in respect of the applicant to a Medical Officer of the Commonwealth.

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Clause 192.234

192.234

If:

(a) a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and

(b) the disease or condition is not tuberculosis;

arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

192.235

(1) If the applicant is outside Australia at the time of application, the applicant is free from tuberculosis.

(2) If:

(a) the applicant is in Australia at the time of application; and

(b) a Medical Officer of the Commonwealth considers that the applicant is not free from tuberculosis;

arrangements have been made, on the advice of the Medical officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

192.236

Each person covered by subclause 192.212(3), (4) or (5) satisfies the criteria in clauses 192.231 to 192.235.

192.3—Secondary criteria

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

192.31—Criteria

192.311

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

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

(a) is the member of the family unit of a person (the ***primary applicant***) who holds a Subclass 192 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and

(b) made a combined application with the primary applicant.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy

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the primary criteria for the grant of a Subclass 192 visa, and the primary applicant has since been granted that visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following has experienced family violence committed by the primary applicant:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made.

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

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the ***primary applicant***) seeking to satisfy the primary criteria for the grant of a Subclass 192 visa; and

(b) the relationship between the primary applicant and the applicant has ceased; and

(c) one or more of the following has experienced family violence committed by the primary applicant:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

(iii) a dependent child of the applicant or of the primary applicant; and

(d) the applicant:

(i) was in Australia at the time the applicant's visa application was made; or

(ii) entered Australia after the applicant's visa application was made; and

(e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

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

(a) the applicant is a member of the family unit of a person (the ***secondary applicant***) who meets the requirements of subclause (3) or (4); and

(b) the applicant has made a combined application with the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and

(c) a Subclass 192 visa has since been granted to the secondary applicant.

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

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Clause 192.312

192.312

The applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

192.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

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

(3) If the applicant had not turned 18 at the time of the application, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the applicant:

(a) meets the requirements of subclause 192.311(2), (3) or (4) in relation to:

(i) a primary applicant who holds a Subclass 192 visa in the Pacific Engagement stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(ii) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Pacific Engagement stream; or

(b) meets the requirements of subclause 192.311(5) in relation to a secondary applicant who meets the requirements of subclause 192.311(3) or (4) in relation to:

(i) a primary applicant who holds a Subclass 192 visa in the Pacific Engagement stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(ii) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Pacific Engagement stream;

the applicant satisfies public interest criterion 4007.

(5) If the applicant:

(a) meets the requirement of subclause 192.311(2), (3) or (4) in relation to:

(i) a primary applicant who holds a Subclass 192 visa in the Treaty stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

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(ii) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Treaty stream; or

(b) meets the requirement of subclause 192.311(5) in relation to a secondary applicant who meets the requirements of subclause 192.311(3) or (4) in relation to:

(i) a primary applicant who holds a Subclass 192 visa in the Treaty stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(ii) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Treaty stream;

the applicant satisfies the criteria in clauses 192.231 to 192.235.

192.314

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

192.315

(1) This clause applies if the applicant (the ***secondary applicant***) meets the requirements of subclause 192.311(3) or (4).

(2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 192 visa satisfies:

(a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021; and

(b) special return criteria 5001, 5002 and 5010.

(3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 192 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.

(4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 192 visa and who has not turned 18 at the time of decision.

(5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 192 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(6) If the secondary applicant meets the requirements of subclause 192.311(3) or (4) in relation to:

(a) a primary applicant who holds a Subclass 192 visa in the Pacific Engagement stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(b) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Pacific Engagement stream;

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each member of the family unit of the secondary applicant who is an applicant for a Subclass 192 visa satisfies public interest criterion 4007.

(7) If the secondary applicant meets the requirements of subclause 192.311(3) or (4) in relation to:

(a) a primary applicant who holds a Subclass 192 visa in the Pacific Engagement stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(b) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Pacific Engagement stream;

each member of the family unit of the secondary applicant who is not an applicant for a Subclass 192 visa satisfies public interest criterion 4007, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

(8) If the secondary applicant meets the requirements of subclause 192.311(3) or (4) in relation to:

(a) a primary applicant who holds a Subclass 192 visa in the Treaty stream granted on the basis of satisfying the primary criteria for the grant of the visa; or

(b) a primary applicant who, at the time of application, was seeking to satisfy the primary criteria for the grant of a Subclass 192 visa in the Treaty stream;

each member of the family unit of the secondary applicant who is an applicant for a Subclass 192 visa satisfies the criteria in clauses 192.231 to 192.235.

192.4—Circumstances applicable to grant

192.411

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

192.5—When visa is in effect

192.511

(1) In the case of a visa granted to a person on the basis of the person satisfying:

(a) the criteria in Subdivisions 192.21 and 192.23; or

(b) the criteria in Division 192.3, if the visa was granted because the person met the requirements of clause 192.311 in relation to:

(i) a primary applicant who holds, or was seeking to satisfy the primary criteria for the grant of, a Subclass 192 visa in the Treaty stream; or

(ii) a secondary applicant who meets the requirements of subclause 192.311(3) or (4) in relation to a primary applicant who holds, or was seeking to satisfy the primary criteria for the grant of, a Subclass 192 visa in the Treaty stream;

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permanent visa permitting the holder to travel to and enter Australia indefinitely from the date of grant.

(2) In any other case—permanent visa permitted the holder to travel to an enter Australia for 5 years from the date of grant.

192.6—Conditions

192.611

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

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Subclass 200—Refugee

200.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

200.111

In this Part:

relevant Minister means any of the following:

(a) the Attorney-General;
(b) the Defence Minister;
(c) the Foreign Minister;
(d) the Minister.

200.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

200.21—Criteria to be satisfied at time of application

200.211

(1) The applicant:
(a) is subject to persecution in the applicant's home country and is living in a country other than the applicant's home country; or
(aa) meets the requirements of subclause (1A); or
(b) meets the requirements of subclause (2).

(1A) The applicant meets the requirements of this subclause if:
(a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and
(b) a relevant Minister has certified that the applicant is:
(i) in one of those classes; and
(ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.

(1B) Before making the instrument mentioned in paragraph (1A)(a), the Minister must consult:
(a) the Prime Minister; and
(b) the Finance Minister; and
(c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.

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(1C) A relevant Minister may, in writing, delegate the relevant Minister's powers to certify an applicant for the purposes of paragraph (1A)(b) to:

(a) in the case of a relevant Minister other than the Attorney-General:

(i) the Secretary of the Department administered by the relevant Minister; or

(ii) an SES employee, or acting SES employee, in the Department administered by the relevant Minister; or

(b) in the case of the Attorney-General:

(i) the Secretary of the Department administered by the Attorney-General; or

(ii) an SES employee, or acting SES employee, in the Department administered by the Attorney-General; or

(iii) the Commissioner of the Australian Federal Police; or

(iv) a Deputy Commissioner of the Australian Federal Police; or

(v) a senior executive AFP employee (within the meaning of the *Australian Federal Police Act 1979*).

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

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

(a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 200 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

200.22—Criteria to be satisfied at time of decision

200.221

The applicant continues to satisfy the criteria in clause 200.211.

200.222

The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

(a) in the case of an applicant who met the requirements of subclause 200.211(2) at the time of application—the extent of the applicant's connection with Australia; or

(b) in any other case—the following:

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(i) the degree of persecution to which the applicant is subject in the applicant's home country; and
(ii) the extent of the applicant's connection with Australia; and
(iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
(iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

200.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

200.224

The Minister is satisfied that permanent settlement in Australia:
(a) is the appropriate course for the applicant; and
(b) would not be contrary to the interests of Australia.

200.225

Grant of the visa would not result in either:
(a) the number of Subclass 200 visas granted in a financial year exceeding the maximum number of Subclass 200 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or
(b) the number of visas of particular classes (including Subclass 200) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

200.226

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

200.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

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200.228

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

200.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 200 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 200 visa is a person who:

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

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

200.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

200.31—Criteria to be satisfied at time of application

200.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 200.211(1)(a) or (aa); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 200.211(1)(b).

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Clause 200.321

200.32—Criteria to be satisfied at time of decision

200.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 200.211(1)(a) or (aa), is the holder of a Subclass 200 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 200.211(1)(b)), is the holder of a Subclass 200 visa.

200.322

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

200.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia, satisfies special return criterion 5001.

200.4—Circumstances applicable to grant

200.411

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

200.5—When visa is in effect

200.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

200.6—Conditions

200.611

Entry must be made before the date specified by the Minister for the purpose.

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200.612

Condition 8502 may be imposed.

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Subclass 201—In-country Special Humanitarian

201.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

201.111

In this Part:

relevant Minister means any of the following:

(a) the Attorney-General;
(b) the Defence Minister;
(c) the Foreign Minister;
(d) the Minister.

201.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

201.21—Criteria to be satisfied at time of application

201.211

(1) The applicant:
(a) is subject to persecution in the applicant's home country and is living in the applicant's home country; or
(aa) meets the requirements of subclause (1A); or
(b) meets the requirements of subclause (2); or
(c) is covered by subitem 1402(3B) of Schedule 1.

(1A) The applicant meets the requirements of this subclause if:
(a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and
(b) a relevant Minister has certified that the applicant is:
(i) in one of those classes; and
(ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.

(1B) Before making the instrument mentioned in paragraph (1A)(a), the Minister must consult:
(a) the Prime Minister; and
(b) the Finance Minister; and

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(c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.

(1C) A relevant Minister may, in writing, delegate the relevant Minister's powers to certify an applicant for the purposes of paragraph (1A)(b) to:

(a) in the case of a relevant Minister other than the Attorney-General:

(i) the Secretary of the Department administered by the relevant Minister; or

(ii) an SES employee, or acting SES employee, in the Department administered by the relevant Minister; or

(b) in the case of the Attorney-General:

(i) the Secretary of the Department administered by the Attorney-General; or

(ii) an SES employee, or acting SES employee, in the Department administered by the Attorney-General; or

(iii) the Commissioner of the Australian Federal Police; or

(iv) a Deputy Commissioner of the Australian Federal Police; or

(v) a senior executive AFP employee (within the meaning of the *Australian Federal Police Act 1979*).

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

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

(a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 201 visa; and

(aa) the application is made within 5 years of the grant of that visa; and

(b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration.

201.22—Criteria to be satisfied at time of decision

201.221

The applicant continues to satisfy the criteria in clause 201.211.

201.222

The Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa having regard to:

(a) the degree of persecution to which the applicant is subject in the applicant's home country; and

(b) the extent of the applicant's connection with Australia; and

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(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
(d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

201.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

201.224

The Minister is satisfied that permanent settlement in Australia:
(a) is the appropriate course for the applicant; and
(b) would not be contrary to the interests of Australia.

201.225

Grant of the visa would not result in either:
(a) the number of Subclass 201 visas granted in a financial year exceeding the maximum number of Subclass 201 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or
(b) the number of visas of particular classes, including Subclass 201 visas, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

201.226

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

201.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

201.228

If a person (in this clause called the additional applicant):
(a) is a member of the family unit of the applicant; and
(b) has not turned 18; and
(c) made a combined application with the applicant—

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

201.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 201 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
  (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
  (b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 201 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(3) Subclause (2) does not apply if the applicant is covered by subitem 1402(3B) of Schedule 1.

201.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

201.31—Criteria to be satisfied at time of application

201.311

The applicant:
  (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 201.211(1)(a), (aa) or (c); or
  (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 201.211(1)(b).

201.32—Criteria to be satisfied at time of decision

201.321

The applicant:
  (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements

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of paragraph 201.211(1)(a), (aa) or (c), is the holder of a Subclass 201 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 201.211(1)(b)), is the holder of a Subclass 201 visa.

201.322

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

201.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

201.4—Circumstances applicable to grant

201.411

(1) Unless subclause (2) applies, the applicant must be outside Australia when the visa is granted.

(2) If the applicant is covered by subitem 1402(3B) of Schedule 1, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

201.5—When visa is in effect

201.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

201.6—Conditions

201.611

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

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201.612

Condition 8502 may be imposed.

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Subclass 202—Global Special Humanitarian

202.1—Interpretation

Note: ***eligible New Zealand citizen***, ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03.

202.111

In this Part:

approved proposing organisation means an organisation in relation to which the following requirements are met:

(a) the organisation has entered into a deed with the Department relating to:
  (i) the proposal of applicants for a Subclass 202 visa; and
  (ii) the provision and management of resettlement services to an applicant that it has proposed;

(b) the deed:
  (i) is in effect; and
  (ii) is not suspended under the terms of the deed.

202.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

202.21—Criteria to be satisfied at time of application

202.211

(1) If the application does not include a proposal by an approved proposing organisation, the applicant:
  (a) is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant's home country and is living in a country other than the applicant's home country; or
  (b) meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:
  (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***); and
  (b) either:
    (i) the proposer is, or has been, the holder of a Subclass 202 visa, and the applicant was a member of the immediate family of the proposer on the date of grant of that visa; or

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(ii) the proposer is, or has been, the holder of a Subclass 866 (Protection) visa, and the applicant was a member of the immediate family of the proposer on the date of application for that visa; or

(iia) the proposer is, or has been, the holder of a Resolution of Status (Class CD) visa, and the applicant was a member of the immediate family of the proposer on the date of application for that visa; and

(ba) the application is made within 5 years of the grant of that visa; and

(c) the applicant continues to be a member of the immediate family of the proposer; and

(d) before the grant of that visa, that relationship was declared to Immigration; and

(e) the proposer is not a person mentioned in subregulation 2.07AM(5).

202.212

If the application includes a proposal by an approved proposing organisation:

(a) the applicant is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant's home country and is living in a country other than the applicant's home country; and

(b) the proposal is not made on behalf of another person who is mentioned in subregulation 2.07AM(5); and

(c) the applicant is still proposed by the approved proposing organisation.

202.22—Criteria to be satisfied at time of decision

202.221

(1) If the criteria in clause 202.211 apply to the applicant, the applicant continues to satisfy the criteria.

(2) If the criteria in clause 202.212 apply to the applicant, the applicant continues to satisfy the criteria.

202.222

(1) If:

(a) the applicant met the requirements of subclause 202.211(2) at the time of application; and

(b) the applicant's proposer is, or has been, the holder of a Subclass 202 visa;

the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa having regard to the extent of the applicant's connection with Australia.

(2) If subclause (1) does not apply, and the application does not include a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

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(a) the degree of discrimination to which the applicant is subject in the applicant's home country; and
(b) the extent of the applicant's connection with Australia; and
(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from discrimination; and
(d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

(3) If the application includes a proposal by an approved proposing organisation, the Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:
(a) the degree of discrimination to which the applicant is subject in the applicant's home country; and
(b) the extent of the applicant's connection with Australia; and
(c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from discrimination; and
(d) the capacity of the approved proposing organisation to provide for the permanent settlement of the applicant in Australia.

202.223

(1) The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

(2) If the application includes a proposal by an approved proposing organisation, the permanent settlement of the applicant in Australia would be consistent with the priorities of the Commonwealth in relation to the permanent settlement in Australia of persons who are proposed by approved proposing organisations for Subclass 202 visas.

Note: This subclause commenced on 1 July 2017 as part of the Department's Community Support Programme, which deals with the permanent settlement in Australia of persons who are proposed by approved proposing organisations for Subclass 202 visas.

202.224

The Minister is satisfied that permanent settlement in Australia:
(a) is the appropriate course for the applicant; and
(b) would not be contrary to the interests of Australia.

202.225

If the application does not include a proposal by an approved proposing organisation, the applicant is proposed for entry to Australia, in accordance with approved form 681, by:
(a) a person who:

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(i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
(ii) is not a person mentioned in subregulation 2.07AM(5); or

(b) a body operating in Australia.

202.226

Grant of the visa would not result in either:

(a) the number of Subclass 202 visas granted in a financial year exceeding the maximum number of Subclass 202 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 202, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

202.227

(1) The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

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

(2) If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

202.227A

If:

(a) the application includes a proposal by an approved proposing organisation; and

(b) the Minister has requested an assurance of support in relation to the applicant;

the Minister is satisfied that:

(c) the assurance has been accepted by the Secretary of Social Services; and

(d) if a person (in this clause called the ***additional applicant***):

(i) is a member of the family unit of the applicant; and
(ii) made a combined application with the applicant; and
(iii) the Minister has requested an assurance of support in relation to the additional applicant;

the additional applicant meets the requirements of paragraph 202.322A(c) or (d).

202.228

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

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

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

202.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 202 visa is a person who:
(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 202 visa is a person who:
(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

202.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

202.31—Criteria to be satisfied at time of application

202.311

The applicant:
(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211(1)(a) or 202.212(a); or
(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211(1)(b).

202.312

The applicant is included in:
(a) if the application of the relevant person who satisfies the primary criteria does not include a proposal by an approved proposing organisation—the proposal made under clause 202.225 in respect of that person; or

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(b) if the application of the relevant person who satisfies the primary criteria includes a proposal by an approved proposing organisation—that proposal.

202.32—Criteria to be satisfied at time of decision

202.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 202.211(1)(a) or 202.212(a), is the holder of a Subclass 202 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 202.211(1)(b)), is the holder of a Subclass 202 visa.

202.322

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

202.322A

If:

(a) the application of the person who satisfied the primary criteria includes a proposal by an approved proposing organisation; and

(b) the Minister has requested an assurance of support in relation to that person; and

(ba) the Minister has requested an assurance of support in relation to the applicant;

the Minister is satisfied that:

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

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

202.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

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Clause 202.411

202.4—Circumstances applicable to grant

202.411

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

Note: If the application includes a proposal by an approved proposing organisation, the second instalment of the visa application charge must be paid before the visa can be granted.

202.5—When visa is in effect

202.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

202.6—Conditions

202.611

Entry must be made before the date specified by the Minister for the purpose.

202.612

Condition 8502 may be imposed.

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Subclass 203—Emergency Rescue

203.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03. There are no interpretation provisions specific to this Part.

203.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

203.21—Criteria to be satisfied at time of application

203.211

(1) The applicant:
  (a) is subject to persecution in the applicant's home country, whether the applicant is living in the applicant's home country or in another country; or
  (b) meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:
  (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 203 visa; and
  (aa) the application is made within 5 years of the grant of that visa; and
  (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
  (c) the applicant continues to be a member of the immediate family of the proposer; and
  (d) before the grant of that visa, that relationship was declared to Immigration; and
  (e) the proposer is not a person mentioned in subregulation 2.07AM(5).

203.22—Criteria to be satisfied at time of decision

203.221

The applicant continues to satisfy the criteria in clause 203.211.

203.222

The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:

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Clause 203.223

(a) in the case of an applicant who met the requirements of subclause 203.211(2) at the time of application—the extent of the applicant's connection with Australia; or
(b) in any other case—the following:
(i) the degree of persecution to which the applicant is subject in the applicant's home country; and
(ii) the extent of the applicant's connection with Australia; and
(iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
(iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

203.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

203.224

The Minister is satisfied that:
(a) there are urgent and compelling reasons for the applicant to travel to Australia; and
(b) permanent settlement in Australia:
(i) is the appropriate course for the applicant; and
(ii) would not be contrary to the interests of Australia.

203.225

Grant of the visa would not result in either:
(a) the number of Subclass 203 visas granted in a financial year exceeding the maximum number of Subclass 203 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or
(b) the number of visas of particular classes, including Subclass 203, granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

203.226

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

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203.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

203.228

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

203.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 203 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 203 visa is a person who:

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

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

203.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

203.31—Criteria to be satisfied at time of application

203.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211(1)(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211(1)(b).

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Clause 203.321

203.32—Criteria to be satisfied at time of decision

203.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 203.211(1)(a), is the holder of a Subclass 203 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 203.211(1)(b)), is the holder of a Subclass 203 visa.

203.322

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

203.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

203.4—Circumstances applicable to grant

203.411

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

203.5—When visa is in effect

203.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

203.6—Conditions

203.611

Entry must be made before the date specified by the Minister for the purpose.

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203.612

Condition 8502 may be imposed.

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Subclass 204—Woman at Risk

204.1—Interpretation

Note: ***member of the family unit*** and ***member of the immediate family*** are defined in regulation 1.03. There are no interpretation provisions specific to this Part.

204.2—Primary criteria

Note: The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

204.21—Criteria to be satisfied at time of application

204.211

(1) The applicant:
  (a) is a female person who is:
    (i) subject to persecution or registered as being of concern to the United Nations High Commissioner for Refugees; and
    (ii) living in a country other than her home country; or
  (b) is a person who meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:
  (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 204 visa; and
  (aa) the application is made within 5 years of the grant of that visa; and
  (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
  (c) the applicant continues to be a member of the immediate family of the proposer; and
  (d) before the grant of that visa, that relationship was declared to Immigration; and
  (e) the proposer is not a person mentioned in subregulation 2.07AM(5).

204.212

(1) The spouse or de facto partner of the applicant is not prohibited by subclause (2) from proposing the applicant's entry to Australia.

(2) For subclause (1), the spouse or de facto partner is prohibited from proposing the applicant's entry to Australia if:
  (a) the spouse or de facto partner is a woman who was granted a Subclass 204 visa within the 5 years immediately preceding the application; and

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(b) on the date of grant of that visa:
  (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
  (ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

204.22—Criteria to be satisfied at time of decision

204.221

The applicant continues to satisfy the criteria in clause 204.211.

204.222

If the applicant meets the requirements of paragraph 204.211(1)(a), the Minister is satisfied that the applicant does not have the protection of a male relative and is in danger of victimisation, harassment or serious abuse because of her sex.

204.222A

The Minister is satisfied that permanent settlement in Australia:
(a) is the appropriate course for the applicant; and
(b) would not be contrary to the interests of Australia.

204.223

The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

204.224

The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:
(a) in the case of an applicant who met the requirements of subclause 204.211(2) at the time of application—the extent of the applicant's connection with Australia; or
(b) in any other case—the following:
  (i) the degree of persecution to which the applicant is subject in the applicant's home country; and
  (ii) the extent of the applicant's connection with Australia; and
  (iii) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
  (iv) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

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Clause 204.225

204.225

Grant of the visa would not result in either:

(a) the number of Subclass 204 visas granted in a financial year exceeding the maximum number of Subclass 204 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or

(b) the number of visas of particular classes, including Subclass 204 granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

204.226

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

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

204.227

If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

204.228

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

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

(b) has not turned 18; and

(c) made a combined application with the applicant—

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

204.229

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 204 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

(b) if the person has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 204 visa is a person who:

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

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

204.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

204.31—Criteria to be satisfied at time of application

204.311

The applicant:

(a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211(1)(a); or

(b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211(1)(b).

204.32—Criteria to be satisfied at time of decision

204.321

The applicant:

(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria and, in particular, having met the requirements of paragraph 204.211(1)(a), is the holder of a Subclass 204 visa; or

(b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 204.211(1)(b)), is the holder of a Subclass 204 visa.

204.322

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

204.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

(aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and

(b) if the applicant has previously been in Australia—satisfies special return criterion 5001.

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Clause 204.411

204.4—Circumstances applicable to grant

204.411

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

204.5—When visa is in effect

204.511

Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

204.6—Conditions

204.611

Entry must be made before a date specified by the Minister for the purpose.

204.612

Condition 8502 may be imposed.

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Subclass 300—Prospective Marriage

300.1—Interpretation

300.111

In this Part:

prospective spouse means the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in clause 300.211.

the parties means the applicant and the prospective spouse.

Note: For ***eligible New Zealand citizen***, see regulation 1.03.

300.2—Primary criteria

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

300.21—Criteria to be satisfied at time of application

300.211

The applicant intends to marry a person who is:

(a) an Australian citizen; or

(b) an Australian permanent resident; or

(c) an eligible New Zealand citizen.

300.212A

The applicant has turned 18.

300.212

(1) The prospective spouse of the applicant is not prohibited by subclause (2) from being a sponsor.

(2) The prospective spouse is prohibited from being a sponsor if:

(a) the prospective spouse is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and

(b) on the date of grant of that visa:

(i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or

(ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

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Clause 300.213

300.213

(1) The applicant is sponsored by the prospective spouse.

(2) The prospective spouse has turned 18.

300.214

(1) The applicant and the prospective spouse have met in person since each of them turned 18.

(2) The applicant and the prospective spouse are known to each other personally.

300.215

The applicant establishes:

(a) that the parties genuinely intend to marry; and

(b) that the marriage is intended by the parties to take place within the visa period.

300.216

The Minister is satisfied that the parties genuinely intend to live together as spouses.

300.22—Criteria to be satisfied at time of decision

300.221

The applicant continues to satisfy the criteria in clause 300.211 and clauses 300.214 to 300.216.

300.221A

There is no impediment to the marriage in Australian law.

300.222

(1) The sponsorship of the applicant under clause 300.213 has been approved by the Minister and is still in force.

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

(2) The prospective spouse has consented to the disclosure by the Department, to each applicant sponsored by the prospective spouse, of any conviction of the prospective spouse for a relevant offence (within the meaning of subregulation 1.20KC(2)).

Note: The prospective spouse may be asked to consent to such disclosure on the approved form required to be completed by the prospective spouse in relation to the visa application.

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(3) For the purposes of subclause (2), the conviction of the prospective spouse for a relevant offence is to be disregarded if:
  (a) the conviction has been quashed or otherwise nullified; or
  (b) both:
    (i) the prospective spouse has been pardoned in relation to the conviction; and
    (ii) the effect of that pardon is that the prospective spouse is taken never to have been convicted of the offence.

300.223

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4019, 4020 and 4021.

300.224

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

300.226

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 300 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010 and 4020; and
  (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
  (b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 300 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

300.227

If a person (in this clause called the additional applicant):
  (a) is a member of the family unit of the applicant; and
  (b) has not turned 18; and
  (c) made a combined application with the applicant—

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

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300.3—Secondary criteria

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

300.31—Criteria to be satisfied at time of application

300.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in clauses 300.211 to 300.212 and 300.214 to 300.216.

300.312

The sponsorship referred to in clause 300.213 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

300.32—Criteria to be satisfied at time of decision

300.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 300 visa.

300.322

The sponsorship referred to in clause 300.312 has been approved by the Minister and is still in force.

300.323

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and

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

300.324

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

300.326

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

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300.4—Circumstances applicable to grant

300.412

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

300.5—When visa is in effect

300.511

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

(a) a date specified by the Minister, which must be a date occurring at least 9 months, but not more than 15 months, from the date of grant; or

(b) if the Minister does not specify a date—9 months from the date of grant.

300.512

Despite clause 300.511, the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia until 31 March 2022 if:

(a) the visa was in effect at any time during the period beginning on 6 October 2020 and ending on 10 December 2020; and

(b) the holder is outside Australia on 10 December 2020.

300.513

Despite clauses 300.511 and 300.512, the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia until 31 December 2022 if:

(a) the visa was in effect on 15 September 2021; and

(b) the holder is outside Australia on 15 September 2021.

300.6—Conditions

300.611

First entry must be made before a date specified by the Minister for the purpose.

300.612

If the applicant satisfies the primary criteria, conditions 8515 and 8519.

300.613

If the applicant satisfies the primary criteria, condition 8502 may be imposed.

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Clause 300.614

300.614

If the applicant satisfies the secondary criteria, condition 8520.

300.615

If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

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Subclass 309—Partner (Provisional)

309.1—Interpretation

309.111

In this Part:

intended spouse means the person referred to in subparagraph 309.211(3)(a)(i), (ii) or (iii).

Note: ***eligible New Zealand citizen*** and ***guardian*** are defined in regulation 1.03, ***parent*** is defined in subsection 5(1) of the Act (also see regulation 1.14A), ***de facto partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

309.2—Primary criteria

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

309.21—Criteria to be satisfied at time of application

309.211

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

(2) The applicant meets the requirements of this subclause if the applicant is the spouse or de facto partner of:
  (a) an Australian citizen; or
  (b) an Australian permanent resident; or
  (c) an eligible New Zealand citizen.

(3) The applicant meets the requirements of this subclause if:
  (a) the applicant intends to marry:
    (i) an Australian citizen; or
    (ii) an Australian permanent resident; or
    (iii) an eligible New Zealand citizen; and
  (b) the intended marriage will, if it takes place, be a valid marriage for the purposes of section 12 of the Act.

Note: If the applicant is an applicant referred to in subclause 309.211(3), then, except in certain circumstances, the marriage must have taken place before the applicant can be granted a visa of this subclass: see clause 309.224.

309.212

(1) The spouse, de facto partner or intended spouse of the applicant is not prohibited by subclause (2) from being a sponsor.

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(2) The spouse, de facto partner or intended spouse is prohibited from being a sponsor if:
  (a) the applicant is a male person; and
  (b) the spouse, de facto partner or intended spouse is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and
  (c) on the date of grant of that visa:
    (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
    (ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

309.213

(1) If the applicant is an applicant referred to in subclause 309.211(2), the applicant is sponsored:
  (a) if the applicant's spouse or de facto partner has turned 18—by that spouse or de facto partner; or
  (b) if the applicant's spouse has not turned 18—by a parent or guardian of that spouse who:
    (i) has turned 18; and
    (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

(2) If the applicant is an applicant referred to in subclause 309.211(3), the applicant is sponsored:
  (a) if the applicant's intended spouse has turned 18—by that intended spouse; or
  (b) if the applicant's intended spouse has not turned 18—by a parent or guardian of that intended spouse who:
    (i) has turned 18; and
    (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

309.22—Criteria to be satisfied at time of decision

309.221

(1) Either:
  (a) the applicant continues to meet the requirements of clause 309.211; or
  (b) the applicant meets the requirements of subclause (2) or (3) of this clause.

(2) The applicant meets the requirements of this subclause if the applicant:
  (a) would continue to meet the requirements of clause 309.211 except that the sponsoring partner has died; and

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

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

(a) the applicant would continue to meet the requirements of clause 309.211 except that the relationship between the applicant and the sponsoring partner has ceased; and

(b) either or both of the following circumstances applies:

(i) the applicant has entered Australia after making the application and either or both of the following has experienced family violence committed by the sponsoring partner:

(A) the applicant;

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

(ii) the applicant:

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

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

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

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

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

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

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

309.222

(1) The sponsorship referred to in clause 309.213 has been approved by the Minister and is still in force.

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

(2) The sponsor has consented to the disclosure by the Department, to each applicant included in the sponsorship, of any conviction of the sponsor for a relevant offence (within the meaning of subregulation 1.20KC(2)).

Note: The sponsor may be asked to consent to such disclosure on the approved form required to be completed by the sponsor in relation to the visa application.

(3) For the purposes of subclause (2), the conviction of the sponsor for a relevant offence is to be disregarded if:

(a) the conviction has been quashed or otherwise nullified; or

(b) both:

(i) the sponsor has been pardoned in relation to the conviction; and

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(ii) the effect of that pardon is that the sponsor is taken never to have been convicted of the offence.

(4) This clause does not apply in relation to an applicant who meets the requirements of subclause 309.221(2) or (3).

309.223

In the case of an applicant who meets the requirements of subclause 309.211(2), either:

(a) the applicant continues to be the spouse or de facto partner of the person referred to in paragraph 309.211(2)(a), (b) or (c) who was the applicant's spouse or de facto partner at the time of the application; or

(b) paragraph 309.221(1)(b) applies.

309.224

If the applicant is an applicant referred to in subclause 309.211(3), either:

(a) the marriage referred to in that subclause has taken place and the applicant continues to be the spouse of the intended spouse; or

(b) both of the following:

(i) paragraph 309.221(1)(b) applies;

(ii) before the intended spouse died, or before the relationship between the applicant and the intended spouse ceased, the applicant was the spouse or de facto partner of the intended spouse.

309.225

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

309.226

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

309.228

(1) Each member of the family unit of, and each person who is dependent on, the applicant who is an applicant for a Subclass 309 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and

(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and

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(b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 309 visa is a person who:
(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
(b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

309.229

If a person (in this clause called the additional applicant):
(a) is a member of the family unit of the applicant; and
(b) has not turned 18; and
(c) made a combined application with the applicant—
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

309.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

309.31—Criteria to be satisfied at time of application

309.311

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 309.21.

309.312

The sponsorship referred to in clause 309.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

309.32—Criteria to be satisfied at time of decision

309.321

(1) The applicant meets the requirements of subclause (2) or (3).

(2) The applicant:
(a) continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 309 (Partner (Provisional)) visa (the ***person who satisfies the primary criteria***); or
(b) is a person to whom each of the following applies:

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(i) the person made a combined application with the person who satisfies the primary criteria;
(ii) subsequent to the combined application being made, the person was found by the Minister not to be a member of the family unit of the person who satisfies the primary criteria;
(iii) subsequent to the person who satisfies the primary criteria being granted a Subclass 309 (Partner (Provisional)) visa and Subclass 100 (Partner) visa—the ART found the person to be a member of the family unit of the person who satisfies the primary criteria.

(3) If:
(a) the applicant made a combined application with a person (the ***primary person***):
(i) who, having satisfied the primary criteria in Subdivision 309.21, is the holder of a Subclass 309 (Partner (Provisional)) visa; or
(ii) who has subsequently been granted a Subclass 100 (Partner) visa; and
(b) both of the following apply in relation to the sponsor of the primary person:
(i) the sponsor has at any time been an unauthorised maritime arrival;
(ii) the sponsor was an Australian permanent resident at the time the combined application was made;
the applicant is dependent on the primary person.

309.322

(1) The sponsorship referred to in clause 309.312 has been approved by the Minister and is still in force.

Note: For limitations on the Minister's discretion to approve sponsorships see regulation 1.20J.

(2) Subclause (1) does not apply in relation to an applicant if:
(a) the applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 309 (Partner (Provisional)) visa; and
(b) clause 309.222 did not apply in relation to that person.

309.323

The applicant:
(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and
(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

309.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

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309.326

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

309.4—Circumstances applicable to grant

309.412

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

309.5—When visa is in effect

309.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until the end of the day on which:

(a) the holder is notified that the holder's application for a Partner (Migrant) (Class BC) visa has been decided; or

(b) that application is withdrawn.

309.6—Conditions

309.611

First entry must be made before a date specified by the Minister for the purpose.

309.612

If the applicant meets the primary criteria, condition 8502 may be imposed.

309.613

If the applicant meets the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

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Subclass 400—Temporary Work (Short Stay Specialist)

400.1—Interpretation

400.111

In this Part:

non-ongoing, in relation to a person's proposed engagement in work, means engagement in the following circumstances:

(a) the work is likely to be completed within a continuous period of 6 months or less;

(b) the person:

(i) has not been given an expectation of staying in Australia, for a purpose relating to the work, after the end of that period; and

(ii) has not made arrangements to stay in Australia, for a purpose relating to the work, after the end of that period.

400.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 400 visa include criteria set out in streams.

An applicant must satisfy the criteria in Subdivision 400.21 and also in one of Subdivisions 400.22 to 400.24.

An application for a Subclass 400 visa will be assessed against as many streams as necessary, whether or not the applicant specifies a particular stream in the application. The criteria in Subdivisions 400.22 to 400.24 will be used in turn as primary criteria for the grant of the visa as the application is assessed.

The primary criteria must be satisfied by at least one member of a family unit.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

400.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 400 visa.

400.211

(1) The applicant has personal attributes, an employment background, or both, that are relevant to, and consistent with, the nature of the applicant's proposed participation in an event, or proposed engagement in an activity or work.

(2) The applicant demonstrates that there is need for the applicant to be in Australia to participate in the event, or engage in the activity or work.

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400.213

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 400 visa would be subject; and

(c) any other relevant matter.

400.214

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

400.215

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4011, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

400.216

The applicant satisfies special return criteria 5001, 5002 and 5010.

400.22—Criteria for Highly Specialised Work stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 400 visa in the Highly Specialised Work stream.

400.221

The applicant will undertake work that is highly specialised.

400.222

The applicant's engagement in the work will be non-ongoing.

400.223

The applicant:

(a) will not be performing as an entertainer in Australia:

(i) under a performing contract; or

(ii) for non-profit purposes; and

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(b) will not be supporting an entertainer or a group of entertainers in Australia; and
(c) will not be directing, producing or taking another part in a film, television or radio production that is to be shown or broadcast in Australia; and
(d) will not be directing, producing or taking another part in a theatre production, concert or recording that is to be performed in Australia.

400.224

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

400.225

(1) The applicant does not intend to engage in any course:
(a) leading to the completion of a primary or secondary education program; or
(b) leading to a degree, diploma, trade certificate or other formal award.

(2) The applicant does not intend to engage in any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution in or outside Australia.

400.24—Criteria for Australia's Interest stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 400 visa in the Australia's Interest stream.

400.241

(1) There are compelling circumstances that:
(a) affect Australia's interests; and
(b) require the applicant's entry to and stay in Australia.

(2) The applicant will participate in an event, or engage in an activity or work, that relates directly to those circumstances.

400.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

400.31—Criteria

400.311

The applicant:

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(a) is a member of the family unit of a person who holds a Subclass 400 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
(b) made a combined application with that person.

400.312

(1A) This clause applies to an applicant who is a member of the family unit of a person who holds a Subclass 400 visa in the Highly Specialised Work stream granted on the basis of satisfying the primary criteria for the grant of the visa.

(1) The applicant does not intend to engage in any course:
(a) leading to the completion of a primary or secondary education program; or
(b) leading to a degree, diploma, trade certificate or other formal award.

(2) The applicant does not intend to engage in any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution in or outside Australia.

400.313

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:
(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and
(b) any other relevant matter.

400.314

The applicant has:
(a) adequate means to support himself or herself; or
(b) access to adequate means to support himself or herself;
during the period of the applicant's intended stay in Australia.

400.315

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4011, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

400.316

The applicant satisfies special return criteria 5001, 5002 and 5010.

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400.4—Circumstances applicable to grant

400.411

The applicant must be outside Australia when the visa is granted.

400.5—When visa is in effect

400.511

Temporary visa permitting the holder:

(a) to travel to and enter Australia, within:
  (i) 6 months after the date of the grant of the visa; or
  (ii) a lesser period specified by the Minister; and
(b) to remain in Australia for:
  (i) 6 months after first entry; or
  (ii) a lesser period specified by the Minister; and
(c) to travel to and enter Australia, during the period mentioned in paragraph (b):
  (i) once only; or
  (ii) if the Minister specifies—more than once.

400.6—Conditions

400.611

If the applicant satisfied the primary criteria for the grant of a Subclass 400 visa:

(a) conditions 8107 and 8303 must be imposed; and
(b) condition 8503 may be imposed.

400.612

If the applicant satisfied the secondary criteria for the grant of a Subclass 400 visa:

(a) conditions 8101 and 8303 must be imposed; and
(b) condition 8503 may be imposed.

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Subclass 403—Temporary Work (International Relations)

403.1—Interpretation

403.111

In this Part:

Australian signatory is a department or agency of:

(a) the Commonwealth; or

(b) a State or Territory;

that is a signatory to the relevant agreement.

foreign government agency has the meaning given by subregulation 2.57(1).

foreign signatory means a government, of a foreign country, that is a signatory to the relevant agreement.

relevant agreement means a written agreement that:

(a) is in effect; and

(b) is between:

(i) a department or agency of the Commonwealth, a State or a Territory; and

(ii) a government of a foreign country; and

(c) is at least partly for the purpose of facilitating the temporary entry of people to Australia; and

(d) is not an agreement or arrangement, or a type of agreement or arrangement, that is specified by the Minister in an instrument in writing for this paragraph.

Note: For ***Foreign Minister***: see regulation 1.03. For ***adverse information***: see regulation 1.13A.

403.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 403 visa include criteria set out in streams.

An applicant must satisfy the criteria in Subdivision 403.21 and also in one of Subdivisions 403.22 to 403.29.

If an applicant applies for a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream, the criteria in Subdivisions 403.21 and 403.26 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 403 visa and specifies a stream other than the Mobility Arrangement for Talented Early-professionals Scheme stream or does not specify a particular stream, the application will be assessed against as many streams (other than the Mobility Arrangement for Talented Early-professionals Scheme stream) as is necessary. The criteria in Subdivisions 403.22 to 403.25 and 403.29 will be used in turn as primary criteria for the grant of the visa as the application is assessed.

The primary criteria must be satisfied by at least one member of a family unit.

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The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

403.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 403 visa.

403.211

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

403.212

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 403 visa would be subject; and

(c) any other relevant matter.

403.213

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

403.214

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

403.215

The applicant satisfies special return criteria 5001, 5002 and 5010.

403.22—Criteria for Government Agreement stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Government Agreement stream.

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403.221

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:
  (i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or
  (iii) a Subclass 771 (Transit) visa; or
  (iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:
  (i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and
  (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

403.222

(1) The applicant will be engaged in work, or an activity, in Australia in accordance with the terms and conditions of a relevant agreement.

(2) The applicant meets the requirements of the relevant agreement.

(3) An Australian signatory agrees to the applicant's stay in Australia.

(4) The foreign signatory agrees to the applicant's stay in Australia.

(5) If the foreign signatory is not the national government of the relevant foreign country, the national government of the foreign country does not oppose the applicant's stay in Australia.

403.223

If the Minister has required the applicant to provide a letter from an Australian signatory stating that the Australian signatory is satisfied that:

(a) the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards; and

(b) the applicant has complied with any licensing, registration or equivalent requirements associated with the applicant's employment or engagement;

the applicant has provided the letter.

403.224

The employment or engagement of the applicant would be of benefit to Australia.

403.225

(1) The applicant satisfies public interest criterion 4005.

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(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

403.23—Criteria for Foreign Government Agency stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Foreign Government Agency stream.

403.231

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:
  (i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or
  (iii) a Subclass 771 (Transit) visa; or
  (iv) a special purpose visa; or
(b) if the applicant did not hold a substantive visa at that time:
  (i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and
  (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

403.232

The applicant is:

(a) a person who:
  (i) seeks to enter Australia to be employed as a representative of a foreign government agency that does not enjoy official status in Australia; and
  (ii) would not, as a representative of that kind, enjoy official status in Australia; or
(b) a foreign language teacher intending to work in an Australian school but as an employee of a foreign government.

403.233

The employment or engagement of the applicant would be of benefit to Australia.

403.234

The application has the support, in writing, of the foreign government agency.

403.235

(1) The applicant satisfies public interest criterion 4005.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

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403.24—Criteria for Domestic Worker (Diplomatic or Consular) stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream.

403.241

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive visa held by the applicant was a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3003 and 3004.

403.242

(1) If the application is made in Australia:

(a) the applicant is undertaking full-time domestic duties in the household of a person:

(i) who holds a subclass 995 Diplomatic (Temporary) visa; and

(ii) who had entered into an employment agreement with the applicant on the basis of which the applicant was previously granted a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or

(b) the applicant seeks to remain in Australia to undertake full-time domestic duties in the household of a person:

(i) for whom the applicant is not currently undertaking full-time domestic duties; and

(ii) who holds a Subclass 995 (Diplomatic (Temporary)) visa; and

(iii) who has entered into an employment agreement with the applicant in relation to those duties.

(2) For the purposes mentioned in paragraph (1)(a) or (b), the applicant is employed or engaged in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

403.243

If the application is made outside Australia, the applicant:

(a) has turned 18; and

(b) seeks to enter Australia to undertake full-time domestic duties in the household of a person who:

(i) holds a Subclass 995 (Diplomatic (Temporary)) visa; and

(ii) is not a permanent resident of Australia; and

(iii) has entered into an employment agreement with the applicant in relation to those duties; and

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(c) is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

403.244

The application has the support, in writing, of the Foreign Minister.

403.245

(1) The applicant satisfies public interest criterion 4005.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

403.25—Criteria for Privileges and Immunities stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Privileges and Immunities stream.

403.251

If the applicant was in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa that was not:
  (i) a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream; or
  (iii) a Subclass 771 (Transit) visa; or
  (iv) a special purpose visa; or

(b) if the applicant did not hold a substantive visa at that time:
  (i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and
  (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

403.252

(1) The applicant is a person to whom privileges and immunities are, or are expected to be, accorded to the applicant under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*.

(2) The application has the support, in writing, of the Foreign Minister.

403.26—Criteria for Mobility Arrangement for Talented Early-professionals Scheme stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream.

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403.261

(1) The applicant holds a qualification that:
  (a) is of a kind specified by the Minister in an instrument in writing for the purposes of this paragraph; and
  (b) relates to an industry specified by the Minister in an instrument in writing for the purposes of this paragraph.

(2) The qualification was conferred or awarded by a foreign educational institution specified by the Minister in an instrument in writing for the purposes of this subclause.

403.262

(1) The applicant satisfies any language test requirements specified by the Minister in an instrument made for the purposes of this subclause.

(2) If the Minister requires the applicant to demonstrate the applicant's English language proficiency, the applicant demonstrates the applicant's English language proficiency in the manner specified by the Minister.

403.263

The applicant:
  (a) satisfies public interest criterion 4005; and
  (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

403.29—Criteria for the Pacific Australia Labour Mobility stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Pacific Australia Labour Mobility stream.

403.291

Each of the following applies:
  (a) the applicant is participating, as a worker, in the scheme known as the Pacific Australia Labour Mobility scheme;
  (b) an approved sponsor has agreed to be the sponsor of the applicant and the sponsor is:
    (i) a temporary activities sponsor; and
    (ii) participating, as an employer, in the scheme known as the Pacific Australia Labour Mobility scheme;
  (c) the sponsor has not withdrawn the sponsor's agreement to be the sponsor of the applicant;
  (d) the sponsor has not ceased to be the sponsor of the applicant;
  (e) either:
    (i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

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(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor;

(f) the applicant:

(i) is seeking to enter Australia for the purposes of the scheme known as the Pacific Australia Labour Mobility scheme; or

(ii) is in Australia and holds, or the last substantive visa held by the applicant was, a Subclass 403 visa in the Pacific Australia Labour Mobility stream, the Seasonal Worker Program stream or the Pacific Labour Scheme stream;

(g) the applicant satisfies public interest criteria 4005 and 4019.

403.3—Secondary criteria

Note 1: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

403.31—Criteria

403.311

The applicant is a member of the family unit of a person (the primary applicant) who holds any of the following visas granted on the basis of satisfying the primary criteria:

(a) a Subclass 403 visa in the Government Agreement stream;

(b) a Subclass 403 visa in the Foreign Government Agency stream;

(c) a Subclass 403 visa in the Privileges and Immunities stream;

(ca) a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream;

(d) a Subclass 403 visa in the Pacific Australia Labour Mobility stream that permits the primary applicant to remain in Australia for a period of at least 1 year;

(e) a Subclass 403 visa in the Pacific Labour Scheme stream.

403.312

If the primary applicant holds a Subclass 403 visa in the Government Agreement stream:

(a) the relevant agreement permits the applicant to enter Australia as a member of the family unit of the primary applicant; and

(b) an Australian signatory has agreed to the applicant's stay in Australia; and

(c) if the relevant agreement contains terms and conditions that apply to a member of the family unit of the primary applicant, the applicant meets the requirements of the terms and conditions.

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403.312A

(1) This clause applies if the applicant (the ***secondary applicant***) is a member of the family unit of a person (the ***primary applicant***) who holds:
  (a) a Subclass 403 visa in the Pacific Australia Labour Mobility stream that permits the primary applicant to remain in Australia for a period of at least 1 year; or
  (b) a Subclass 403 visa in the Pacific Labour Scheme stream.

(2) The primary applicant is participating, as a worker, in the scheme known as the Pacific Australia Labour Mobility scheme.

(3) The support of the secondary applicant's application mentioned in paragraph 1234(3)(cc) of Schedule 1 has not been withdrawn.

403.313

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

403.314

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:
  (a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and
  (b) any other relevant matter.

403.315

The applicant has:
  (a) adequate means to support himself or herself; or
  (b) access to adequate means to support himself or herself;
during the period of the applicant's intended stay in Australia.

403.316

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

(3) If the primary applicant holds:
  (a) a Subclass 403 visa in the Government Agreement stream; or
  (b) a Subclass 403 visa in the Foreign Government Agency stream; or
  (ba) a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream; or

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(c) a Subclass 403 visa in the Pacific Australia Labour Mobility stream that permits the primary applicant to remain in Australia for a period of at least 1 year; or

(d) a Subclass 403 visa in the Pacific Labour Scheme stream;

the applicant satisfies public interest criterion 4005.

(4) If:

(a) the primary applicant holds:

(i) a Subclass 403 visa in the Government Agreement stream; or

(ii) a Subclass 403 visa in the Foreign Government Agency stream; or

(iia) a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream; or

(iii) a Subclass 403 visa in the Pacific Australia Labour Mobility stream that permits the primary applicant to remain in Australia for a period of at least 1 year; or

(iv) a Subclass 403 visa in the Pacific Labour Scheme stream; and

(b) the applicant had turned 18 at the time of application;

the applicant satisfies public interest criterion 4019.

403.317

The applicant satisfies special return criteria 5001, 5002 and 5010.

403.4—Circumstances applicable to grant

403.411

(1) An applicant who satisfies the primary criteria for the grant of:

(a) a Subclass 403 visa in the Government Agreement stream; or

(b) a Subclass 403 visa in the Foreign Government Agency stream; or

(c) a Subclass 403 visa in the Privileges and Immunities stream;

may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2) An applicant who satisfies the secondary criteria for the grant of a Subclass 403 visa in relation to a primary applicant referred to in subclause (1) may be in or outside Australia, but not in immigration clearance, when the visa is granted.

(2C) An applicant for the grant of a Subclass 403 visa in the Pacific Australia Labour Mobility stream:

(a) if the applicant holds, or 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—may be in or outside Australia, but not in immigration clearance, when the visa is granted; or

(b) otherwise—must be outside Australia when the visa is granted.

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(3) For an applicant not covered by subclause (1), (2) or (2C):
  (a) if the applicant was in Australia when the application was made—the applicant must be in Australia, but not in immigration clearance, when the visa is granted; or
  (b) if the applicant was outside Australia when the application was made—the applicant must be outside Australia when the visa is granted.

403.5—When visa is in effect

403.511

(1) Unless subclause (1A) applies, if the applicant is outside Australia at the time of grant—temporary visa permitting the holder:
  (a) to travel to and enter Australia until a date specified by the Minister; and
  (b) to remain in Australia during a period (the ***period of stay***) beginning on the day the applicant first enters Australia as the holder of the visa and ending at the end of a period specified by the Minister; and
  (c) to travel to and re-enter Australia during the period of stay.

(1A) For a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream—temporary visa permitting the holder:
  (a) to travel to and enter Australia, within 12 months after the date of the grant of the visa; and
  (b) to remain in Australia for 24 months after first entry.

(2) If the applicant is in Australia at the time of grant—temporary visa permitting the holder:
  (a) to remain in Australia during a period (the ***period of stay***) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister; and
  (b) to travel to and re-enter Australia during the period of stay.

403.6—Conditions

403.611

(1) This clause applies to an applicant who satisfies the primary criteria for the grant of:
  (a) a Subclass 403 visa in the Government Agreement stream; or
  (b) a Subclass 403 visa in the Foreign Government Agency stream; or
  (c) a Subclass 403 visa in the Privileges and Immunities stream.

(2) The visa is subject to conditions 8107, 8303, 8501 and 8516.

(3) Conditions 8301, 8502, 8503, 8525 and 8526 may be imposed.

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Clause 403.612

403.612

(1) This clause applies to an applicant who satisfies the secondary criteria for the grant of a Subclass 403 visa.

(2) The visa is subject to conditions 8303, 8501 and 8516.

(3) Conditions 8106, 8301, 8502, 8503, 8522, 8525 and 8526 may be imposed.

403.613

(1) This clause applies to an applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Domestic Worker (Diplomatic or Consular) stream.

(2) The visa is subject to conditions 8110, 8303, 8501 and 8516.

(3) Conditions 8301, 8502, 8503, 8525 and 8526 may be imposed.

403.614

(1) This clause applies to an applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Mobility Arrangement for Talented Early-professionals Scheme stream.

(2) The visa is subject to conditions 8303, 8501 and 8516.

(3) Conditions 8301, 8502, 8503, 8525 and 8526 may be imposed.

403.617

(1) This clause applies to an applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Pacific Australia Labour Mobility stream.

(2) The visa is subject to conditions 8303, 8501 and 8611.

(3) Conditions 8301, 8502, 8503, 8516, 8525, 8576 and 8578 may be imposed.

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Subclass 405—Investor Retirement

405.1—Interpretation

405.111

In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note: For ***appropriate regional authority***, see regulation 1.03.

405.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

405.21—Criteria to be satisfied at time of application

Note 1: No criteria to be satisfied at time of application if applicant is outside Australia at that time.

Note 2: The requirements for making a valid application for an Investor Retirement (Class UY) visa are set out in item 1212B of Schedule 1.

405.211

If the applicant is in Australia, the applicant:

(a) must hold a substantive visa; or

(b) must:

(i) have held a substantive visa since last entering Australia; and

(ii) satisfy Schedule 3 criteria 3002, 3004 and 3005, unless the last substantive visa held by the applicant was a Subclass 405 visa and the Minister is satisfied that the applicant is unable to satisfy those criteria because of compassionate and compelling circumstances.

405.22—Criteria to be satisfied at time of decision

405.221

The family unit of the applicant does not include:

(a) if the applicant has a spouse or de facto partner—any other person dependent on the applicant or the applicant's spouse or de facto partner; or

(b) if the applicant does not have a spouse or de facto partner—any person dependent on the applicant.

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Clause 405.222

405.222

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

405.223

If the applicant is in Australia, the applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) either:

(i) the applicant holds a Subclass 405 visa; or

(ii) the last substantive visa held by the applicant was a Subclass 405 visa; and

(c) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

405.224

If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

405.225

The Minister may waive the requirement of clause 405.224 if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

405.226

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

405.227

(1) This clause applies to an applicant other than an applicant to whom clause 405.228 applies.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in

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the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the net value of the applicant's assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD500 000; and

(b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and

(c) the applicant has made a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the net value of the applicant's assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD750 000; and

(b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

(c) the applicant has made a designated investment of an amount of at least AUD750 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being the assets mentioned in paragraph (2)(a) or (3)(a), any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded):

(a) are legally owned and lawfully acquired by:

(i) the applicant; or

(ii) the applicant's spouse or de facto partner; or

(iii) the applicant and his or her spouse or de facto partner together; and

(b) other than resources relating to inheritance, or to the applicant's, the spouse's or the de facto partner's superannuation or pension—have been held by any combination of:

(i) the applicant; and

(ii) the applicant's spouse or de facto partner; and

(iii) the applicant and his or her spouse or de facto partner together;

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throughout the 2 years immediately before the application for an Investor Retirement (Class UY) visa is made.

(5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any) have adequate arrangements for health insurance for the period of:
  (a) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and
  (b) if the applicant has a spouse or de facto partner—the spouse's or de facto partner's intended stay in Australia as the holder of a Subclass 405 visa.

(6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4019, 4020 and 4021.

(7) The applicant's spouse or de facto partner (if any) satisfies:
  (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4020; and
  (b) if the applicant's spouse or de facto partner had turned 18 at the time of application—public interest criterion 4019.

405.228

(1) This clause applies to an applicant if:
  (a) the applicant is the holder of a Subclass 405 visa; or
  (b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:
  (a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and
  (b) the applicant has made and maintained a designated investment of an amount of at least AUD250 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located;

  unless the applicant is in Australia and the Minister is satisfied that the applicant is unable to satisfy paragraph (a) or (b), or both, because of compassionate and compelling circumstances.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of

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application, in the instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D:

(a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

(b) the applicant has made and maintained a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located;

unless the applicant is in Australia and the Minister is satisfied that the applicant is unable to satisfy paragraph (a) or (b), or both, because of compassionate and compelling circumstances.

(4) The Minister is satisfied that the resources (if any) required to satisfy subclause (2) or (3) (being any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded) are legally owned and lawfully acquired by:

(a) the applicant; or

(b) the applicant's spouse or de facto partner; or

(c) the applicant and his or her spouse or de facto partner together.

(5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any):

(a) have had adequate arrangements for health insurance for the period of:

(i) the applicant's stay in Australia as the holder of a Subclass 405 visa; and

(ii) if the applicant has a spouse or de facto partner—the spouse's or de facto partner's stay in Australia as the holder of a Subclass 405 visa;

unless the applicant is in Australia and the Minister is satisfied that the applicant is unable to satisfy this paragraph because of compassionate and compelling circumstances; and

(b) have adequate arrangements for health insurance for the period of:

(i) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and

(ii) if the applicant has a spouse or de facto partner—the spouse's or de facto partner's intended stay in Australia as the holder of a Subclass 405 visa.

(6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4019, 4020 and 4021.

(6A) The applicant's spouse or de facto partner (if any) satisfies:

(a) public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4020; and

(b) if the applicant's spouse or de facto partner had turned 18 at the time of application—public interest criterion 4019.

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(7) The applicant and the applicant's spouse or de facto partner (if any) are free from tuberculosis.

(8) The applicant and the applicant's spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant's spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community.

(9) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment—the applicant has provided such an undertaking.

405.3—Secondary criteria

Note: These criteria must be satisfied by any applicant who is a member of the family unit of a person who satisfies the primary criteria.

405.31—Criteria to be satisfied at time of application

405.311

The applicant is the spouse or de facto partner of a person who satisfies the primary criteria for the grant of a Subclass 405 visa.

405.312

If the applicant is outside Australia and the application is made separately from that of the applicant's spouse or de facto partner:

(a) the spouse or de facto partner is, or is expected soon to be, in Australia; and

(b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

405.32—Criteria to be satisfied at time of decision

405.321

The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 405 visa.

405.322

The applicant continues to satisfy the criteria in clause 405.312.

405.323

The family unit of the applicant does not include any person (other than the applicant's spouse or de facto partner) dependent on the applicant or the applicant's spouse or de facto partner.

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405.324

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

405.325

If the applicant is in Australia, the applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) either:

(i) the applicant holds a Subclass 405 visa; or

(ii) the last substantive visa held by the applicant was a Subclass 405 visa; and

(c) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

405.326

If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

405.327

The Minister may waive the requirement of clause 405.326 if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

405.328

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

405.329

(1) This clause applies to an applicant other than an applicant to whom clause 405.330 applies.

(2) The Minister is satisfied that the applicant has adequate arrangements for health insurance for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.

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Clause 405.330

(3) The applicant:
(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4020 and 4021; and
(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

405.330

(1) This clause applies to an applicant if:
(a) the applicant is the holder of a Subclass 405 visa; or
(b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.

(2) The Minister is satisfied that the applicant has had adequate arrangements for health insurance for the period of the applicant's stay in Australia as the holder of a Subclass 405 visa, unless:
(a) the applicant is in Australia; and
(b) the Minister is satisfied that the applicant is unable to satisfy this subclause because of compassionate and compelling circumstances.

(2A) The Minister is satisfied that the applicant has adequate arrangements for health insurance for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.

(3) The applicant:
(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021; and
(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

(4) The applicant is free from tuberculosis.

(5) The applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

(6) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment—the applicant has provided such an undertaking.

405.4—Circumstances applicable to grant

405.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

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405.5—When visa is in effect

405.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

405.6—Conditions

405.611

Conditions 8104, 8501 and 8516 must be imposed.

405.612

Any 1 or more of conditions 8301, 8303, 8502, 8522, 8525 and 8526 may be imposed.

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Subclass 407—Training

407.1—Interpretation

Note: There are no interpretation provisions specific to this Part.

407.2—Primary criteria

Note 1: The primary criteria must be satisfied by at least one member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

407.211

Either:

(a) the applicant has turned 18; or

(b) the applicant has not turned 18 and exceptional circumstances exist for the grant of the visa.

407.212

The applicant has functional English.

Note: For ***functional English***, see subsection 5(2) of the Act.

407.213

Each of the following applies:

(a) an approved sponsor has agreed, in writing, to be the sponsor of the applicant;

(b) the sponsor is:

(i) a temporary activities sponsor; or

(ii) if the application was made on or before 18 May 2017—a professional development sponsor or a training and research sponsor;

(c) the sponsor has not withdrawn its agreement to be the sponsor of the applicant;

(d) the sponsor has not ceased to be the sponsor of the applicant.

407.214

If the approved sponsor is not a Commonwealth agency:

(a) the sponsor has nominated a program of occupational training in relation to the applicant under paragraph 140GB(1)(b) of the Act; and

(b) the nomination has been approved under section 140GB of the Act on the basis of the criteria in regulation 2.72A; and

(c) the approval of the nomination has not ceased under regulation 2.75A; and

(d) either:

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(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or
(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

407.215

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

407.216

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

407.217

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and
(b) whether the applicant intends to comply with the conditions to which the Subclass 407 visa would be subject; and
(c) any other relevant matter.

407.218

The applicant does not hold:

(a) a permanent visa; or
(b) a temporary visa specified by the Minister in a legislative instrument made for the purposes of this paragraph.

407.219

The applicant has:

(a) adequate means to support himself or herself; or
(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

407.219A

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4013, 4014, 4020 and 4021.

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(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

407.219B

The applicant satisfies special return criteria 5001, 5002 and 5010.

407.219C

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

407.3—Secondary criteria

Note 1: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

407.311

The applicant is a member of the family unit of a person who holds any of the following visas granted on the basis of satisfying the primary criteria for the grant of the visa:

(a) a Subclass 402 (Training and Research) visa;

(b) a Subclass 407 (Training) visa.

407.312

The approved sponsor of the primary applicant:

(a) has agreed, in writing, to be the sponsor of the applicant; and

(b) has not withdrawn its agreement to be the sponsor of the applicant; and

(c) has not ceased to be the sponsor of the primary applicant; and

(d) either:

(i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

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407.313

Either:

(a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the Minister is satisfied that the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

407.314

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

407.315

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

407.316

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

407.317

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

407.318

The applicant satisfies special return criteria 5001, 5002 and 5010.

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Clause 407.411

407.4—Circumstances applicable to grant

407.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

407.5—When visa is in effect

407.511

(1) If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:
  (a) to travel to and enter Australia until a date specified by the Minister; and
  (b) to remain in Australia during a period (the ***period of stay***) beginning on the day the applicant first enters Australia as the holder of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
  (c) to travel to and re-enter Australia during the period of stay.

(2) If the applicant is in Australia at the time of grant—temporary visa permitting the holder:
  (a) to remain in Australia during a period (the ***period of stay***) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
  (b) to travel to and re-enter Australia during the period of stay.

407.6—Conditions

407.611

If the applicant is a primary applicant:
  (a) the visa is subject to conditions 8102, 8303, 8501 and 8516; and
  (b) conditions 8106, 8107, 8301, 8502, 8503, 8525 and 8526 may be imposed.

407.612

If the applicant is a secondary applicant:
  (a) the visa is subject to conditions 8104, 8303 and 8501; and
  (b) conditions 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

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Subclass 408—Temporary Activity

408.1—Interpretation

408.111

In this Part:

adverse supporter information: see clause 408.112.

foreign government agency has the meaning given by subregulation 2.57(1).

government agency has the meaning given by subregulation 2.57(1).

net employment benefit: an activity which a person seeks to enter or remain in Australia to carry out is taken to bring a ***net employment benefit*** to the Australian entertainment industry if:

(a) the person seeks to enter or remain in Australia to carry out the activity individually or in association with a group; and

(b) the Minister is satisfied that the carrying out of the activity would lead to greater employment of Australian citizens or Australian permanent residents (or both) than if a person normally resident in Australia undertook the activity.

passes the sponsorship test: a person ***passes the sponsorship*** test in relation to an applicant if:

(a) the person:

(i) is an approved sponsor; and

(ii) has agreed, in writing, to be the sponsor of the applicant; and

(iii) has not withdrawn that agreement; and

(iv) has not ceased to be the sponsor of the applicant; and

(b) either:

(i) there is no adverse information known to Immigration about the person, or a person associated with the person; or

(ii) it is reasonable to disregard any adverse information known to Immigration about the person, or a person associated with the person; and

(c) if the person is not a temporary activities sponsor—the application was made on or before 18 May 2017.

Note: The sponsor may be, but is not required to be, the same as the sponsor (or applicant for approval as a sponsor) specified in the visa application.

passes the support test: a person or organisation ***passes the support test*** in relation to an applicant if:

(a) if requested by the Minister—the applicant produces a letter of support, from the person or organisation, which:

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(i) identifies the event, activity or work for which the applicant seeks to enter or remain in Australia; and

(ii) sets out the duties of the applicant in relation to the event, activity or work; and

(iii) sets out the date or dates, and the location or locations, of the event, activity or work; and

(b) either:

(i) there is no adverse supporter information known to Immigration about the person or organisation, or a person associated with the person or organisation; or

(ii) it is reasonable to disregard any adverse supporter information known to Immigration about the person or organisation, or a person associated with the person or organisation.

sporting organisation has the meaning given by subregulation 2.57(1).

408.112

(1) In this Part, ***adverse supporter information*** about a person or organisation is any adverse information relevant to the suitability of the person or organisation to support an application for a Subclass 408 visa (otherwise than as an approved work sponsor of the applicant).

(2) Without limiting subclause (1), ***adverse supporter information*** about a person or organisation includes information that the person or organisation:

(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 a relevant assessing authority a bogus document, or information that is false or misleading in a material particular.

(3) Nothing in this clause 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 clause:

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

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(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.

408.2—Primary criteria

Note 1: The primary criteria must be satisfied by at least one member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

408.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 408 visa.

408.211

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

408.212

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

408.213

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 408 visa would be subject; and

(c) any other relevant matter.

408.214

The applicant does not hold:

(a) a permanent visa; or

(b) a temporary visa specified by the Minister in a legislative instrument made for the purposes of this paragraph.

408.215

The applicant has:

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(a) adequate means to support himself or herself; or
(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

408.216

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4012, 4017 and 4018.

408.217

The applicant satisfies special return criteria 5001, 5002 and 5010.

408.218

Either:
(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or
(b) both of the following apply:
(i) the applicant has engaged in such conduct in that period;
(ii) the Minister considers that it is reasonable to disregard the conduct.

408.219

(1) Subject to subclause (2), the applicant:
(a) will not be performing as an entertainer in Australia:
(i) under a performing contract; or
(ii) for non-profit purposes; and
(b) will not be supporting an entertainer or a group of entertainers in Australia; and
(c) will not be directing, producing or taking another part in:
(i) a film, television or radio production that is to be shown or broadcast in Australia; or
(ii) a theatre production or concert that is to be performed in Australia; or
(iii) a recording that is to take place in Australia.

(2) This clause does not apply to an applicant who satisfies the requirements in clause 408.228A (workplace justice), 408.229 (Australian Government endorsed events) or 408.229A (entertainment).

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408.219A

A clause in Subdivision 408.22 applies to the applicant.

408.22—Alternative criteria

Note: A clause in this Subdivision must apply to the applicant in order for the applicant to satisfy the primary criterion in clause 408.219A.

408.221

Invited participant in an event

This clause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to participate in one or more events; and

(b) the applicant stated on the application form that the proposed length of stay in Australia did not exceed 3 months; and

(c) the applicant has been invited to participate in the event or events by a person or organisation; and

(d) the person or organisation:

(i) is directly responsible for the event or events; or

(ii) has a formal role in preparing for, or conducting, the event or events; and

(e) the duties or tasks to be undertaken by the applicant are appropriate and reasonable, having regard to the requirements of the event or events; and

(f) either:

(i) the person or organisation is a temporary activities sponsor and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made—the person or organisation passes the support test in relation to the applicant.

408.222

(1) This clause applies to the applicant if subclause (2) or (3) applies to the applicant.

Sports trainee

(2) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to participate in sport by being trained by a sporting organisation (the ***relevant sporting organisation***) that is lawfully operating in Australia; and

(b) the applicant is a sportsperson or adjudicator who:

(i) is currently competing or adjudicating at the Australian national level, or equivalent; or

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(ii) is endorsed by the relevant peak sporting body in Australia or overseas as having the demonstrated potential to compete or adjudicate at the Australian national level, or equivalent; and

(c) the relevant sporting organisation has an international reputation for training elite sportspeople or adjudicators; and

(d) the relevant sporting organisation is not a sporting club that, as its primary activity, competes in sporting competitions below the Australian national level for the sport; and

(e) either:

(i) the relevant sporting organisation is a temporary activities sponsor, or a long stay activity sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the relevant sporting organisation passes the support test in relation to the applicant.

Elite player, coach, instructor or adjudicator

(3) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to be a player, a coach, an instructor or an adjudicator in relation to an Australian sporting team or sporting organisation; and

(b) the applicant has been invited to participate in the activity referred to in paragraph (a) by a sporting organisation (the ***relevant sporting organisation***) that is lawfully operating in Australia; and

(c) the applicant has entered into a formal arrangement that provides for the applicant to participate in the activity referred to in paragraph (a) for a period specified in the arrangement; and

(d) the Minister has been provided with a letter of endorsement from the national sporting body responsible for administering the sport in Australia, certifying that the applicant has the ability to play, coach, instruct or adjudicate at the Australian national level; and

(e) either:

(i) the relevant sporting organisation is a temporary activities sponsor, or a long stay activity sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the relevant sporting organisation passes the support test in relation to the applicant.

408.223

Religious worker

This clause applies to the applicant if:

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(a) the applicant seeks to enter or remain in Australia to provide services as a religious worker; and
(b) the applicant has been invited to provide the services by a religious institution that is lawfully operating in Australia; and
(c) the applicant will be engaged on a full-time basis to work or participate in an activity in Australia that:
  (i) is predominately non-profit in nature; and
  (ii) directly serves the religious objectives of the religious institution; and
(d) the applicant has appropriate qualifications and experience to undertake the work or activity; and
(e) either:
  (i) the religious institution is a temporary activities sponsor, or a long stay activity sponsor, and passes the sponsorship test in relation to the applicant; or
  (ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the religious institution passes the support test in relation to the applicant.

408.224

Domestic worker

This clause applies to the applicant if:
(a) the applicant seeks to enter or remain in Australia to provide services as a domestic worker; and
(b) the applicant has been invited to provide the services by a person or organisation that is:
  (i) a foreign government agency that employs a person (the ***first visa holder***) who holds a Subclass 403 (Temporary Work (International Relations)) visa in the Privileges and Immunities stream; or
  (ii) a foreign organisation that is lawfully operating in Australia and that employs a person (the ***first visa holder***) who holds a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa or a Subclass 482 (Temporary Skill Shortage) visa; and
(c) the first visa holder is the national managing director, deputy national managing director or State or Territory manager of an Australian office of the foreign government agency or foreign organisation; and
(d) the applicant will be employed to undertake full-time domestic duties in the private household of the first visa holder; and
(e) the grant of the visa would not cause the number of domestic workers holding visas for employment in the household of the first visa holder to exceed 3 (including the applicant); and
(f) the applicant has turned 18; and
(g) the applicant has experience working as a domestic worker; and
(h) the person or organisation provides evidence that:

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(i) the person or organisation has been unable to find a suitable person in Australia to undertake the duties; or

(ii) there are compelling reasons for employing the applicant; and

(i) the applicant is to be employed in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards; and

(j) either:

(i) the person or organisation is a temporary activities sponsor, or a long stay activity sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the person or organisation passes the support test in relation to the applicant.

408.225

Superyacht crew

This clause applies to the applicant if:

(a) the applicant is a member of the crew of a superyacht; and

(b) the applicant has turned 18; and

(c) either:

(i) the captain, owner or operator of the superyacht is a temporary activities sponsor, or a superyacht crew sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the captain, owner or operator of the superyacht passes the support test in relation to the applicant.

408.226

(1) This clause applies to the applicant if either subclause (2) or (3) applies to the applicant.

Research

(2) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to observe or participate in an Australian research project:

(i) at an Australian tertiary or research institution (the ***relevant institution***) that is lawfully operating in Australia; and

(ii) in collaboration with academics employed by the relevant institution; and

(b) the applicant:

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(i) is employed, or was formerly employed, as an academic at a tertiary or research institution; and

(ii) has a significant record of achievement in his or her field; and

(c) either:

(i) the relevant institution is a temporary activities sponsor, or a training and research sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the relevant institution passes the support test in relation to the applicant.

Research (student)

(3) This subclause applies to the applicant if:

(a) the applicant:

(i) is a student of a foreign educational institution; or

(ii) has graduated from a foreign educational institution during the 12 months preceding the making of the application; and

(b) the applicant seeks to enter or remain in Australia to undertake research at an Australian tertiary or research institution (the ***relevant institution***) that is closely related to the course in which the student is or was enrolled at the foreign educational institution; and

(c) the relevant institution is lawfully operating in Australia; and

(d) either:

(i) the relevant institution is a temporary activities sponsor, or a training and research sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the relevant institution passes the support test in relation to the applicant.

408.227

Staff exchange

This clause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to work for an organisation (the ***first organisation***) that is:

(i) an Australian organisation that is lawfully operating in Australia; or

(ii) a government agency; or

(iii) a foreign government agency; and

(b) there is a written agreement between the first organisation and a foreign organisation (the ***reciprocating organisation***) that provides for:

(i) the applicant to work for the first organisation in Australia for a period specified in the agreement; and

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(ii) a named person, who is an Australian citizen or an Australian permanent resident, to have the opportunity to obtain experience with the reciprocating organisation for a specified period; and

(c) the exchange set out in paragraph (b) will be of benefit to both the applicant and the Australian citizen or Australian permanent resident; and

(d) the work that the applicant will perform for the first organisation will be in a skilled position; and

(e) either:

(i) the first organisation is a temporary activities sponsor, or a long stay activity sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the first organisation passes the support test in relation to the applicant.

408.228

(1) This clause applies to the applicant if any of subclauses (2) to (5) apply to the applicant.

Youth exchange program

(2) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to participate in a youth exchange program that has been approved in writing by the Secretary for the purposes of this paragraph; and

(b) the program is being conducted by a person or organisation that is:

(i) an Australian organisation that is lawfully operating in Australia; or

(ii) a government agency; and

(c) the person or organisation is a party to a special program agreement with the Secretary in relation to the program; and

(d) either:

(i) the person or organisation is a temporary activities sponsor, or a special program sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the person or organisation passes the support test in relation to the applicant.

School to School Interchange Program

(3) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to participate in the School to School Interchange Program; and

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(b) the School to School Interchange Program is being conducted, or is proposed to be conducted, by a person or organisation that is:
(i) a community-based, non-profit Australian organisation that is lawfully operating in Australia; or
(ii) a government agency; and
(c) either:
(i) the person or organisation is a temporary activities sponsor, or a special program sponsor, and passes the sponsorship test in relation to the applicant; or
(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the person or organisation passes the support test in relation to the applicant.

School Language Assistants Program

(4) This subclause applies to the applicant if:
(a) the applicant seeks to enter or remain in Australia to participate in the School Language Assistants Program; and
(b) the School Language Assistants Program is being conducted, or is proposed to be conducted, by:
(i) a community-based, non-profit Australian organisation that is lawfully operating in Australia; or
(ii) a government agency; and
(c) either:
(i) the person or organisation is a temporary activities sponsor, or a special program sponsor, and passes the sponsorship test in relation to the applicant; or
(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the person or organisation passes the support test in relation to the applicant.

Other programs

(5) This subclause applies to the applicant if:
(a) the applicant seeks to enter or remain in Australia to participate in a program which:
(i) has the objective of cultural enrichment or community benefit; and
(ii) has been approved in writing by the Secretary for the purposes of this paragraph; and
(b) the program is being conducted, or is proposed to be conducted, by a person or organisation that is:
(i) a community-based, non-profit Australian organisation that is lawfully operating in Australia; or
(ii) a government agency; and

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(c) the person or organisation is a party to a special program agreement with the Secretary in relation to the program; and

(d) either:

(i) the person or organisation is a temporary activities sponsor, or a special program sponsor, and passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—the person or organisation passes the support test in relation to the applicant.

408.228A

Workplace justice

(1) This clause applies to the applicant if:

(a) the applicant seeks to remain in Australia to undertake a workplace justice activity; and

(b) the applicant is in a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph.

Note: There is no requirement for a person or organisation to pass the sponsorship test or pass the support test in relation to the applicant.

(2) For the purposes of subclause (1), an applicant ***undertakes a workplace justice activity*** if the applicant:

(a) is a complainant or victim (or alleged victim) in criminal proceedings relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1; or

(b) is a party to civil proceedings relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1; or

(c) is a complainant in a complaint made relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1.

408.229

Australian Government endorsed event

This clause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to undertake work directly associated with an event; and

(b) the event is specified in a legislative instrument made by the Minister for the purposes of this paragraph; and

(c) the applicant is in a class of persons specified in the instrument in relation to the event.

Note: There is no requirement for a person or organisation to pass the sponsorship test or pass the support test in relation to the applicant.

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408.229A

(1) This clause applies to the applicant if any of subclauses (2) to (8) apply to the applicant.

Performing in film or television production subsidised by government

(2) This subclause applies to the applicant if:
  (a) the applicant seeks to enter or remain in Australia to perform:
    (i) as an entertainer under a performing contract for one or more specific engagements (other than non-profit engagements) in Australia; and
    (ii) in a film or television production that is subsidised, in whole or in part, by a government in Australia; and
    (iii) in a leading role, major supporting role or cameo role, or to satisfy ethnic or other special requirements; and
  (b) the Arts Minister, or a person authorised by the Arts Minister, has provided a certificate confirming that the relevant Australian content criteria have been met; and
  (c) either:
    (i) an eligible sponsor passes the sponsorship test in relation to the applicant; or
    (ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and
  (d) the eligible sponsor or eligible supporter holds any necessary licences in respect of the production; and
  (e) the eligible sponsor or eligible supporter has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia.

Performing in film or television production not subsidised by government

(3) This subclause applies to the applicant if:
  (a) the applicant seeks to enter or remain in Australia to perform:
    (i) as an entertainer under a performing contract for one or more specific engagements (other than non-profit engagements) in Australia; and
    (ii) in a film or television production that is not subsidised in any way by a government in Australia; and
    (iii) in a leading role, major supporting role or cameo role, or to satisfy ethnic or other special requirements; and
  (b) the Arts Minister, or a person authorised by the Arts Minister, has provided a certificate confirming that:
    (i) citizens and residents of Australia have been afforded a reasonable opportunity to participate in all levels of the production; and
    (ii) the foreign investment, or the private investment guaranteed against the foreign returns by a distributor, in the production is greater than

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the amount to be expended on entertainers sponsored or supported for entry; and

(c) either:

(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and

(d) the eligible sponsor or eligible supporter holds any necessary licences in respect of the production; and

(e) the eligible sponsor or eligible supporter has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia.

Performing in productions not related to film or television

(4) This subclause applies to the applicant if:

(a) the applicant seeks to enter or remain in Australia to perform as an entertainer under a performing contract that:

(i) is not related to a film or television production; and

(ii) is for one or more specific engagements (other than non-profit engagements) in Australia; and

(b) the activity of the applicant referred to in paragraph (a) will bring a net employment benefit to the Australian entertainment industry; and

(c) either:

(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and

(d) the eligible sponsor or eligible supporter holds any necessary licences in respect of the activity of the applicant referred to in paragraph (a); and

(e) the eligible sponsor or eligible supporter has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia; and

(f) the eligible sponsor or eligible supporter has provided an itinerary specifying the dates and venues for all performances.

Production roles other than as a performer

(5) This subclause applies to the applicant if:

(a) the applicant will be directing, producing or taking another part (otherwise than as a performer) in:

(i) a film, television or radio production that is to be shown or broadcast in Australia; or

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(ii) a theatre production or concert that is to be performed in Australia; or
(iii) a recording that is to take place in Australia; and

(b) the activity of the applicant referred to in paragraph (a) will bring a net employment benefit to the Australian entertainment industry; and

(c) either:
(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or
(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and

(d) the eligible sponsor or eligible supporter holds any necessary licences in respect of the activity of the applicant referred to in paragraph (a); and

(e) the eligible sponsor or eligible supporter has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia; and

(f) the eligible sponsor or eligible supporter has provided an itinerary specifying the dates and venues for the production, concert or recording.

Support staff for profit

(6) This subclause applies to the applicant if:

(a) the applicant will be supporting an entertainer or a body of entertainers in relation to a performing contract for one or more specific engagements (other than non-profit engagements) in Australia by assisting a performance or by providing personal services; and

(b) the activity of the applicant referred to in paragraph (a) will bring a net employment benefit to the Australian entertainment industry; and

(c) either:
(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or
(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and

(d) the eligible sponsor or eligible supporter holds any necessary licences in respect of the activity of the applicant referred to in paragraph (a); and

(e) the eligible sponsor or eligible supporter has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia; and

(f) the eligible sponsor or eligible supporter has provided an itinerary specifying the dates and venues for all performances.

Non-profit engagements

(7) This subclause applies to the applicant if:

(a) the applicant will be:

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(i) performing as an entertainer in one or more specific engagements that are for non-profit purposes; or

(ii) supporting an entertainer or a body of entertainers in relation to one or more specific engagements that are for non-profit purposes, by assisting a performance or by providing personal services; and

(b) either:

(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant; and

(c) the eligible sponsor or eligible supporter has provided an itinerary specifying the dates and venues for all performances.

Documentary program or commercial for overseas market

(8) This subclause applies to the applicant if:

(a) the applicant will participate in the making of a documentary program or commercial that is for an overseas market; and

(b) either:

(i) an eligible sponsor passes the sponsorship test in relation to the applicant; or

(ii) if the applicant was outside Australia when the application was made, and stated on the application form that the proposed length of stay did not exceed 3 months—an eligible supporter passes the support test in relation to the applicant.

Eligible sponsor

(9) For the purposes of this clause, a person is an ***eligible sponsor*** if:

(a) the person is a temporary activities sponsor or an entertainment sponsor; and

(b) the person is:

(i) an Australian organisation that is lawfully operating in Australia; or

(ii) a government agency; or

(iii) a foreign government agency.

Eligible supporter

(10) For the purposes of this clause, a person or organisation is an ***eligible supporter*** if the person or organisation is:

(a) an Australian organisation that is lawfully operating in Australia; or

(b) a government agency; or

(c) a foreign government agency; or

(d) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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408.3—Secondary criteria

Note 1: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

408.311

The applicant is a member of the family unit of a person (the ***primary applicant***) who holds any of the following visas granted on the basis of satisfying the primary criteria for the grant of that visa:

(a) a Subclass 408 (Temporary Activity) visa;
(b) a Subclass 401 (Temporary Work (Long Stay Activity)) visa;
(c) a Subclass 402 (Training and Research) visa in the Research stream;
(d) a Subclass 416 (Special Program) visa granted on the basis that the primary applicant satisfied the criterion in paragraph 416.222(a) (special program other than a special program of seasonal work);
(e) a Subclass 420 (Temporary Work (Entertainment)) visa;
(f) a Subclass 488 (Superyacht Crew) visa.

408.312

If the primary applicant was sponsored by an approved work sponsor, the sponsor:

(a) has agreed, in writing, to be the sponsor of the applicant; and
(b) has not withdrawn its agreement to be the sponsor of the applicant; and
(c) has not ceased to be the sponsor of the primary applicant; and
(d) either:
  (i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or
  (ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor.

408.313

Either:

(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or
(b) both of the following apply:
  (i) the applicant has engaged in such conduct in that period;
  (ii) the Minister considers that it is reasonable to disregard the conduct.

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408.314

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

408.315

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

(a) if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) any other relevant matter.

408.316

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

408.317

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

408.318

The applicant satisfies special return criteria 5001, 5002 and 5010.

408.4—Circumstances applicable to grant

408.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

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408.5—When visa is in effect

408.511

(1) If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:
  (a) to travel to and enter Australia until a date specified by the Minister; and
  (b) for a primary applicant—to remain in Australia during a period (the ***period of stay***) beginning on the day the applicant first enters Australia as the holder of the visa and ending at the end of a period specified by the Minister, which must not exceed:
    (i) for a primary applicant who states on the application form that the proposed length of stay in Australia is 3 months or less—3 months; or
    (ii) for a primary applicant who satisfies the criterion in clause 408.219A on the basis of clause 408.228A (workplace justice) or clause 408.229 (Australian Government endorsed events)—4 years; or
    (iii) for any other primary applicant—2 years; and
  (c) for a secondary applicant—to remain in Australia during a period (the ***period of stay***) beginning on the day the applicant first enters Australia as the holder of the visa and ending on the day that the primary applicant's visa ceases to be in effect; and
  (d) to travel to and re-enter Australia during the period of stay.

(2) If the applicant is in Australia at the time of grant—temporary visa permitting the holder:
  (a) for a primary applicant—to remain in Australia during a period (the ***period of stay***) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister, which must not exceed:
    (i) for a primary applicant who satisfies the criterion in clause 408.219A on the basis of clause 408.221 (invited participant in an event)—3 months; or
    (ii) for a primary applicant who satisfies the criterion in clause 408.219A on the basis of clause 408.228A (workplace justice) or clause 408.229 (Australian Government endorsed events)—4 years; or
    (iii) for any other primary applicant—2 years; and
  (b) for a secondary applicant—to remain in Australia during a period (the ***period of stay***) beginning on the date of grant of the visa and ending on the day that the primary applicant's visa ceases to be in effect; and
  (c) to travel to and re-enter Australia during the period of stay.

408.6—Conditions

408.611

If the applicant is a primary applicant:
  (a) the visa is subject to conditions 8107 and 8303; and

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Clause 408.612

(b) if the visa was granted on the basis that clause 408.229A (entertainment) applied to the applicant—the visa is subject to condition 8109; and
(c) conditions 8106, 8114, 8301, 8501, 8502, 8503, 8516, 8525 and 8526 may be imposed.

408.612

If the applicant is a secondary applicant:
(a) the visa is subject to condition 8303; and
(b) conditions 8106, 8301, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

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Subclass 410—Retirement

410.1—Interpretation

Note: No interpretation provisions specific to this Part.

410.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

410.21—Criteria to be satisfied at time of application

Note: No criteria to be satisfied at time of application if applicant is outside Australia at that time.

410.211

If the applicant is in Australia:

(a) the applicant holds a Subclass 410 visa; or

(b) the applicant is not the holder of a substantive visa, and:

(i) the last substantive visa held by the applicant was a Subclass 410 visa; and

(ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005, unless the Minister is satisfied that the applicant is unable to satisfy those criteria because of compassionate and compelling circumstances.

410.22—Criteria to be satisfied at the time of decision

410.221

(1) The applicant satisfies subclauses (2) to (8).

(2) The applicant has turned 55.

(3) If the applicant intends to reside in Australia with his or her spouse or de facto partner, the family unit of the applicant does not include any other person dependent on the applicant or the applicant's spouse or de facto partner.

(4) If the applicant intends to reside in Australia without a spouse or de facto partner, the family unit of the applicant does not include a person dependent on the applicant.

(5) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

(6) If the applicant is in Australia, the applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any

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substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) either:

(i) the applicant holds a Subclass 410 visa; or

(ii) the last substantive visa held by the applicant was a Subclass 410 visa; and

(c) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

(7) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

(8) The applicant satisfies this subclause if:

(a) the applicant and the applicant's spouse or de facto partner (if any) satisfy public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4019 and 4020; and

(b) the applicant and the applicant's spouse or de facto partner (if any) are free from tuberculosis; and

(c) the applicant and the applicant's spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant's spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community; and

(d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment—the applicant has provided such an undertaking.

410.222

The applicant satisfies public interest criterion 4021.

410.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

410.31—Criteria to be satisfied at time of application

410.311

The applicant is the spouse or de facto partner of a person who has applied for a Retirement (Temporary) (Class TQ) visa.

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410.312

If the applicant is outside Australia and the application is made separately from that of the applicant's spouse or de facto partner:

(a) the spouse or de facto partner is, or is expected soon to be, in Australia; and

(b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

410.32—Criteria to be satisfied at the time of decision

410.321

(1) The applicant satisfies subclauses (2) to (7).

(2) The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 410 visa.

(3) The applicant satisfies this subclause if:

(a) the applicant:

(i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4020; and

(ii) satisfies public interest criterion 4019, if he or she had turned 18 at the time of application; and

(b) the applicant is free from tuberculosis; and

(c) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and

(d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment—the applicant has provided such an undertaking.

(5) If the applicant is in Australia, the applicant has complied substantially with the conditions (the ***previous visa conditions***) that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa, unless:

(a) if condition 8303 was a previous visa condition—the applicant has complied substantially with that condition; and

(b) either:

(i) the applicant holds a Subclass 410 visa; or

(ii) the last substantive visa held by the applicant was a Subclass 410 visa; and

(c) the Minister is satisfied that the applicant was unable to comply substantially with the previous visa conditions (other than condition 8303) because of compassionate and compelling circumstances.

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(6) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

(7) If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

(8) The Minister may waive the requirements of subclause (7) if the Minister is satisfied that, in the particular case, waiver is justified by:
  (a) compelling circumstances that affect the interests of Australia; or
  (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

410.322

The applicant satisfies public interest criterion 4021.

410.4—Circumstances applicable to grant

410.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

410.5—When visa is in effect

410.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

410.6—Conditions

410.612

Any 1 or more of conditions 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Note: There are no mandatory conditions.

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Subclass 417—Working Holiday

417.1—Interpretation

417.111

In this Part:

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 1225(3) of Schedule 1.

417.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

417.21—Criteria to be satisfied at time of application

417.211

(1) The applicant satisfies the criteria in subclauses (2), (4), (5) and (6).

(1A) However:

(a) paragraph (2)(a) does not apply if:

(i) the applicant is in Australia; and

(ii) when entering Australia, the applicant held a working holiday eligible passport of the kind, or of one of the kinds, specified in a legislative instrument made by the Minister for the purposes of subclause (2); and

(iii) the passport expired after the applicant entered Australia; and

(b) the applicant does not need to satisfy the criteria in subclauses (5) and (6) if the applicant holds a passport of a kind specified by the Minister in a legislative instrument made for the purposes of subitem 1225(3BA) of Schedule 1; and

(c) the applicant does not need to satisfy the criteria in subclauses (5) and (6) 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 417 (Working Holiday) visa on the basis of another application made on or after 5 March 2022.

(2) The applicant:

(a) holds a working holiday eligible passport of the kind, or of one of the kinds, specified in a legislative instrument made by the Minister for the purposes of this subclause; and

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(b) is aged at least 18 and no more than:
(i) 35; or
(ii) if a younger age is specified in the instrument mentioned in paragraph (a) for the kind of passport the applicant holds (or, if paragraph (1A)(a) applies, held)—that younger age.

(4) The Minister is satisfied that the applicant:
(a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
(b) has sufficient money for:
(i) the fare to the applicant's intended overseas destination on leaving Australia; and
(ii) personal support for the purposes of a working holiday; and
(c) has a reasonable prospect of obtaining employment in Australia; and
(d) will not be accompanied by dependent children during his or her stay in Australia.

(5) If the applicant has held only one Subclass 417 visa in Australia, the Minister is satisfied that:
(a) the applicant has carried out a period or periods of specified Subclass 417 work as the holder of the visa; and
(b) the total period of the work carried out is at least 3 months; and
(c) the applicant has been remunerated for the work in accordance with relevant Australian legislation and awards; and
(d) the work was not carried out for an excluded employer.

(6) If the applicant has held 2 Subclass 417 visas in Australia, the Minister is satisfied that:
(a) the applicant has carried out a period or periods of specified Subclass 417 work; and
(b) the total period of that work is at least 6 months; and
(c) all of that work was carried out while the applicant held:
(i) the second Subclass 417 visa; or
(ii) a bridging visa that was in effect and was granted on the basis of the application for the second Subclass 417 visa (made at a time when the applicant held the first Subclass 417 visa); and
(d) all of that work was carried out on or after 1 July 2019; and
(e) the applicant has been remunerated for that work in accordance with relevant Australian legislation and awards; and
(f) that work was not carried out for an excluded employer.

(7) A reference in subclause (5) or (6) to a Subclass 417 visa does not include a reference to a COVID-19 affected visa.

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417.22—Criteria to be satisfied at time of decision

417.221

(1) The applicant satisfies the criteria in subclauses (2) to (7).

(2) The applicant:
  (a) continues to satisfy the criteria in subclause 417.211(4); and
  (aa) unless paragraph 417.211(1A)(b) or (c) applies—continues to satisfy the criteria in subclauses 417.211(5) and (6); and
  (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4019 and 4020.

(2A) The applicant holds a working holiday eligible passport of the kind, or of one of the kinds, specified in a legislative instrument made by the Minister for the purposes of subclause 417.211(2).

(3) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

(4) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

(5) Approval of the application would not result in either:
  (a) the number of Subclass 417 visas granted in a financial year exceeding the maximum number of Subclass 417 visas, as determined by an instrument in writing, that may be granted in that financial year; or
  (b) the number of visas of particular classes, including Subclass 417, granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing, that may be granted in that financial year.

(6) If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

(7) The Minister may waive the requirements of subclause (6) if the Minister is satisfied that, in the particular case, waiver is justified by:
  (a) compelling circumstances that affect the interests of Australia; or
  (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

417.222

(1) If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 visa:
  (a) the applicant has complied substantially with the conditions that applied to any visa held by the applicant; and

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(b) the applicant has not held more than 2 Subclass 417 visas in Australia (including any Subclass 417 visa held by the applicant at the time of decision on the application).

(2) A reference in subclause (1) to a Subclass 417 visa does not include a reference to a COVID-19 affected visa.

417.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

417.4—Circumstances applicable to grant

417.411

If the applicant is not, and has not previously been, in Australia as the holder of a Subclass 417 visa granted at any time, the applicant must be outside Australia at the time of grant.

417.412

If the applicant is, or has previously been, in Australia as the holder of a Subclass 417 visa:

(a) if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant; or

(b) if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

417.5—When visa is in effect

417.511

(1) If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:

(a) to travel to and enter Australia within 12 months after the date of grant of the visa; and

(b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

(2) If:

(a) the applicant is in Australia at the time of grant; and

(b) the applicant holds a Subclass 417 visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date that the visa mentioned in paragraph (b) would have otherwise ceased to be in effect.

(3) If:

(a) the applicant is in Australia at the time of grant; and

(b) the applicant does not hold a Subclass 417 visa at the time of application;

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temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

417.6—Conditions

417.611

Conditions 8547 and 8548.

417.612

Any 1 or more of conditions 8106, 8107, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

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Subclass 444—Special Category

444.1—Interpretation

Note: No interpretation provisions specific to this Part.

444.2—Primary criteria

Note: The only criteria are those set out in section 32 of the Act and in regulation 5.15A.

444.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

444.4—Circumstances applicable to grant

444.411

At the time of grant, the applicant must:

(a) be in Australia; or

(b) intend to travel to Australia on a pre-cleared flight and be in immigration clearance at a port outside Australia at which pre-clearance procedures are carried out.

Note: For ***pre-cleared flight*** see the Act, s 17.

444.5—When visa is in effect

444.511

Temporary visa permitting the holder to remain in Australia while the holder is a New Zealand citizen.

444.6—Conditions: Nil.

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Subclass 445—Dependent Child

445.1—Interpretation

445.111

For this Part, the parent of an applicant is a visa-holding parent if he or she holds any of the following visas:

(a) Subclass 309 (Spouse (Provisional));
(aa) Subclass 309 (Partner (Provisional));
(b) Subclass 310 (Interdependency (Provisional));
(c) Subclass 445 (Dependent Child);
(d) Subclass 820 (Spouse);
(da) Subclass 820 (Partner);
(e) Subclass 826 (Interdependency).

Note: For ***dependent child***, see regulation 1.03.

445.2—Primary criteria

445.21—Criteria to be satisfied at time of application

445.211

The applicant:

(a) is a dependent child of a visa-holding parent; and
(b) is sponsored by the nominator or sponsor of the visa-holding parent.

445.22—Criteria to be satisfied at time of decision

445.221

The parent of the applicant continues to be a visa-holding parent.

445.222

The applicant continues to be a dependent child of the visa-holding parent.

445.223

(1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirements of this subclause if he or she continues to be sponsored by the nominator or sponsor of the visa-holding parent.

(3) The applicant meets the requirements of this subclause if:
(a) either:

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(i) the nominator or sponsor of the visa-holding parent has died; or

(ii) the relationship between the visa-holding parent and his or her nominator or sponsor has ceased, and either:

(A) the visa-holding parent has requested consideration under provisions relating to family violence in Subclass 100 or 801; or

(B) the visa-holding parent has requested consideration under provisions relating to parental arrangements for a child in Subclass 100 or 801; and

(b) the applicant is sponsored by the visa-holding parent.

(4) The applicant meets the requirements of this subclause if:

(a) the applicant is a dependent child of a parent holding a Subclass 445 visa; and

(b) the circumstances mentioned in subparagraph (3)(a)(i), or sub-subparagraph (3)(a)(ii)(A) or (B) apply; and

(c) the applicant is sponsored by the person who is required to satisfy the primary criteria in Subclass 100 or 801.

Note: For special provisions relating to family violence, see Division 1.5.

445.224

The sponsorship mentioned in clause 445.223 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister's discretion to approve sponsorships.

445.225

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

445.226

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

445.227

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 445 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4020; and

(b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

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(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 445 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criteria 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

445.228

If a person (the additional applicant):
  (a) is a member of the family unit of the applicant; and
  (b) has not turned 18; and
  (c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

445.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are dependent children of, and who have made a combined application with, the person who satisfies the primary criteria.

445.31—Criteria to be satisfied at time of application

445.311

The applicant is a dependent child of, and made a combined application with, the person who satisfies the primary criteria for a Subclass 445 visa.

445.312

The sponsorship mentioned in paragraph 445.211(b) for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.32—Criteria to be satisfied at time of decision

445.321

The applicant continues to be a dependent child of the person who, having satisfied the primary criteria, is the holder of a Subclass 445 visa.

445.322

The sponsorship mentioned in clause 445.223 for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.323

The sponsorship mentioned in clause 445.322 has been approved by the Minister and is still in force.

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445.324

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

445.325

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied, in relation to the applicant.

445.4—Circumstances applicable to grant

445.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

445.5—When a visa is in effect

445.511

Temporary visa permitting the holder to travel to, enter and remain in Australia within the visa period of the Extended Eligibility (Temporary) (Class TK) visa, Partner (Provisional) (Class UF) visa or Partner (Temporary) (Class UK) visa held by the person on whom the applicant is dependent.

445.6—Conditions: Nil.

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Subclass 449—Humanitarian Stay (Temporary)

449.1—Interpretation

Note: No interpretation provisions specific to this Part.

449.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. Other members of the family unit, or members of the immediate family of a person, who are applicants for a visa of this subclass need satisfy only the secondary criteria.

449.21—[No criteria to be satisfied at time of application]

449.22—Criteria to be satisfied at time of decision

449.221

(1) The applicant meets the requirements of subclause (2) or (3).

(2) The applicant meets the requirements of this subclause if:
  (a) the applicant has been displaced from his or her place of residence, and:
    (i) cannot reasonably return to that place of residence; and
    (ii) is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, he or she was displaced from that place of residence; or
  (b) the applicant has not been displaced from his or her place of residence, but:
    (i) there is a strong likelihood that the applicant will be displaced from that place of residence; and
    (ii) the applicant is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, the applicant may be displaced from that place of residence.

(3) The applicant meets the requirements of this subclause if the applicant:
  (a) is a member of the immediate family of a holder of a Subclass 449 visa (***the visa holder***); and
  (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 449 visa.

449.223

Grant of the visa would not result in either:
  (a) the number of Subclass 449 visas granted in a financial year exceeding the maximum number of Subclass 449 visas, as determined by the Minister by legislative instrument, that may be granted in that financial year; or
  (b) the number of visas of particular classes, including Subclass 449, granted in a financial year exceeding the maximum number of visas of those

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classes, as determined by the Minister by legislative instrument, that may be granted in that financial year.

449.224

(1) The applicant satisfies public interest criteria 4002 and 4003A.

(2) The applicant satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

449.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of a person who satisfies the primary criteria.

449.31—[No criteria to be satisfied at time of application]

449.32—Criteria to be satisfied at time of decision

449.321

The applicant:

(a) is a member of the family unit of a person who, having met the requirements of subclause 449.221(2), is the holder of a Subclass 449 visa; or

(b) is a member of the immediate family of a person who, having met the requirements of subclause 449.221(3), is the holder of a Subclass 449 visa.

449.322

(1) The applicant satisfies public interest criteria 4002 and 4003A.

(2) The applicant satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

449.323

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

449.4—Circumstances applicable to grant

449.411

If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

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449.412

If the application is made in Australia, the applicant must be in Australia at the time of grant.

449.5—When visa is in effect

449.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

449.6—Conditions

449.611

Condition 8506.

449.612

Condition 8101 or 8104 may be imposed.

449.612A

Condition 8303 may be imposed.

449.613

If the Minister is satisfied that it would be unreasonable to require an applicant to undergo assessment in relation to criterion 4007, condition 8529.

Note: See subclauses 449.224(2) and 449.322(2).

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Subclass 461—New Zealand Citizen Family Relationship (Temporary)

461.1—Interpretation

Note: There are no interpretation provisions specific to this Part.

461.2—Primary criteria

Note: All applicants must meet the primary criteria.

461.21—Criteria to be satisfied at time of application

461.211

The applicant is not a New Zealand citizen.

461.212

(1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of:
  (a) a person, other than an eligible New Zealand citizen, who is in Australia as the holder of a Subclass 444 (Special Category) visa; or
  (b) a person, other than an eligible New Zealand citizen, who:
    (i) is outside Australia; and
    (ii) will be accompanying the applicant to Australia; and
    (iii) will, on entry, be the holder of a special category visa.

(3) An applicant meets the requirements of this subclause if the applicant:
  (a) either:
    (i) is in Australia as the holder of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa; or
    (ii) is not the holder of a substantive visa and the last substantive visa held by the applicant was a Subclass 461 visa; and
  (b) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
  (c) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).

(4) An applicant meets the requirements of this subclause if the applicant:
  (a) is outside Australia; and
  (b) either:
    (i) the applicant was lawfully present in Australia as the holder of a Subclass 461 visa for a period of, or periods that total, not less than 2

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years in the period of 5 years immediately before the application for the visa; or

(ii) the Minister is satisfied that the applicant:

(A) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and

(B) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence; and

(c) on last departure from Australia was a holder of a Subclass 461 visa; and

(d) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and

(e) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).

461.213

If the applicant is in Australia at the time of application:

(a) at that time, the applicant held a substantive temporary visa other than a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or

(b) if the applicant did not hold a substantive visa at that time:

(i) the last substantive temporary visa held by the applicant was not a visa mentioned in paragraph (a); and

(ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

461.22—Criteria to be satisfied at time of decision

461.221

The applicant continues to satisfy the criterion in subclause 461.212(1).

461.222

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

461.223

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4013, 4014, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

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461.224

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

461.225

If the applicant is in Australia at the time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

461.226

If the applicant is outside Australia at the time of application and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

461.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

461.4—Circumstances applicable to grant

461.411

The applicant may be in or outside Australia, but not in immigration clearance, at the time of grant.

461.5—When visa is in effect

461.511

Temporary visa permitting the holder to travel to, and enter and remain in, Australia for a period of 5 years from the date of grant.

461.6—Conditions

461.611

Either or both of conditions 8303 and 8501 may be imposed.

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Subclass 462—Work and Holiday

462.1—Interpretation

Note: There are no interpretation provisions specific to this Part. ***Foreign Affairs recipient***, ***Foreign Affairs student*** and ***specified Subclass 462 work*** are defined in regulation 1.03.

462.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

462.21—Criteria to be satisfied at time of application

462.211

If the applicant:

(a) is not, and has not previously been, in Australia as the holder of a Subclass 462 visa other than an offshore COVID-19 affected visa; and

(b) is not a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A(3)(b)(iii) of Schedule 1;

the applicant satisfies the criteria in clauses 462.212, 462.213, 462.215, 462.216 and 462.217.

462.211A

If the applicant:

(a) 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; and

(b) is a member of a class of persons specified by the Minister, by an instrument in writing, for the purposes of subparagraph 1224A(3)(b)(iii) of Schedule 1;

the applicant satisfies the criteria in clause 462.212 and clauses 462.214 to 462.217.

462.211B

(1) 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, the applicant satisfies the criteria in:

(a) clauses 462.212, 462.214 and 462.217; and

(b) unless subclause (2) applies—clauses 462.218 and 462.219.

(2) This subclause applies if:

(a) the applicant holds a passport of a kind specified by the Minister in a legislative instrument made for the purposes of paragraph 1224A(3)(d) of Schedule 1; or

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(b) all of the following apply:
(i) the application is made between 5 March 2022 and 31 December 2022;
(ii) the applicant holds or held an onshore COVID-19 affected visa;
(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.

462.212

The applicant is aged at least 18 and no more than:
(a) 35; or
(b) if, in the instrument in writing made for the purposes of paragraph 1224A(3)(a) of Schedule 1, a younger age is specified for the foreign country that issued the passport the applicant holds (or, if paragraph 1224A(3)(aaa) of Schedule 1 applies, held)—that younger age.

462.213

(1) The applicant has provided with the application a letter:
(a) from the government of a foreign country with which the Australian Government has an arrangement mentioned in clause 462.216; and
(b) that includes a statement to the effect that the government of the foreign country has agreed to the applicant's stay in Australia under the arrangement.

(2) The applicant holds a valid passport issued by the foreign country mentioned in subclause (1).

(3) Subclause (2) does not apply if:
(a) the applicant is in Australia; and
(b) when entering Australia, the applicant held a valid passport issued by the foreign country; and
(c) the passport expired after the applicant entered Australia.

462.214

(1) The applicant holds a valid passport issued by a foreign country specified in an instrument in writing made under paragraph 1224A(3)(a) of Schedule 1.

(2) Subclause (1) does not apply if:
(a) the applicant is in Australia; and
(b) when entering Australia, the applicant held a valid passport issued by a foreign country specified in an instrument in writing made under 1224A(3)(a) of Schedule 1; and
(c) the passport expired after the applicant entered Australia.

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462.215

The Minister is satisfied that the applicant has at least functional English.

Note: ***functional English*** is defined in subsection 5(2) of the Act.

462.216

The Minister is satisfied that the application meets the requirements of an arrangement between the Australian Government and the government of a foreign country specified in an instrument in writing made under paragraph 1224A(3)(a) of Schedule 1.

462.217

The Minister is satisfied that the applicant:

(a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and

(b) has sufficient money for:

(i) the fare to the applicant's intended overseas destination on leaving Australia; and

(ii) personal support for the purposes of a working holiday; and

(c) will not be accompanied by dependent children during the applicant's stay in Australia unless the applicant is a member of a class of persons specified by the Minister in an instrument in writing for this paragraph.

462.218

(1) If the applicant has held only one Subclass 462 (Work and Holiday) visa in Australia, the Minister is satisfied that:

(a) the applicant has, after 18 November 2016, carried out a period or periods of specified Subclass 462 work as the holder of the visa; and

(b) the total period of the work carried out is at least 3 months; and

(c) the applicant has been remunerated for the work in accordance with relevant Australian legislation and awards; and

(d) the work was not carried out for an excluded employer.

(2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

462.219

(1) If the applicant has held 2 Subclass 462 (Work and Holiday) visas in Australia, the Minister is satisfied that:

(a) the applicant has carried out a period or periods of specified Subclass 462 work; and

(b) the total period of that work is at least 6 months; and

(c) all of that work was carried out while the applicant held:

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(i) the second Subclass 462 (Work and Holiday) visa; or
(ii) 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

(d) all of that work was carried out on or after 1 July 2019; and
(e) the applicant has been remunerated for that work in accordance with relevant Australian legislation and awards; and
(f) that work was not carried out for an excluded employer.

(2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

462.22—Criteria to be satisfied at time of decision

462.221

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:

(a) continues to satisfy the criteria in clauses 462.215, 462.216 and 462.217; and
(aa) continues to hold the passport mentioned in paragraph 1224A(3)(a) of Schedule 1, or a valid replacement passport issued by the country concerned; and
(b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4019 and 4020; and
(c) is the holder of an educational qualification specified in an instrument in writing for this paragraph, in relation to the foreign country that issued the passport mentioned in paragraph (aa); and
(e) is not a Foreign Affairs student or a Foreign Affairs recipient.

462.221A

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, the applicant:

(a) continues to satisfy the criteria in clause 462.217; and
(aa) unless subclause 462.211B(2) applies—continues to satisfy the criteria in clauses 462.218 and 462.219; and
(b) either:
(i) if the applicant was not in Australia when the application was made—continues to hold the passport mentioned in paragraph 1224A(3)(a) of Schedule 1, or a valid replacement passport issued by the country concerned; or

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(ii) otherwise—holds a valid passport issued by a foreign country specified in an instrument in writing made under paragraph 1224A(3)(a) of Schedule 1; and

(c) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4019 and 4020; and

(d) is not a Foreign Affairs student or a Foreign Affairs recipient.

462.222

If the applicant:

(a) was outside Australia at the time of application; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

462.223

The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

462.224

(1) If the applicant is, or has previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) 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 decision on the application).

(2) A reference in subclause (1) to a Subclass 462 (Work and Holiday) visa does not include a reference to a COVID-19 affected visa.

462.3—Secondary criteria

Note: All applicants must meet the primary criteria.

462.4—Circumstances applicable to grant

462.411

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

462.412

If the applicant is in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

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Clause 462.511

462.5—When visa is in effect

462.511

If the applicant is outside Australia at the time of grant—temporary visa permitting the holder:

(a) to travel to and enter Australia within 12 months after the date of the grant of the visa; and

(b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

462.512

If the applicant is in Australia at the time of grant and did not hold a Subclass 462 (Work and Holiday) visa at the time of application—temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant.

462.513

If the applicant is in Australia at the time of grant and held a Subclass 462 (Work and Holiday) visa (the ***old visa***) at the time of application—temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date that the old visa would have otherwise ceased to be in effect.

462.6—Conditions

462.611

Conditions 8547 and 8548.

462.612

Any 1 or more of conditions 8303, 8501, 8503, 8516 and 8540 may be imposed, unless an application is decided by the use of a computer program in accordance with an arrangement under section 495A of the Act.

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Subclass 476—Skilled—Recognised Graduate

476.1—Interpretation

476.111

In this Part:

completed, in relation to a degree, means having met the academic requirements for the award of the degree.

476.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

476.21—Criteria to be satisfied at time of application

476.211

The applicant:

(a) has not previously held a Subclass 476 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and

(b) has not previously held a Subclass 485 (Temporary Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

476.212

The applicant has completed a course:

(a) in the period of 24 months ending immediately before the day on which the application is made; and

(b) at an institution specified by the Minister in an instrument in writing for this paragraph;

for the award of a degree or higher qualification in a discipline specified in an instrument in writing for this clause.

476.213

The application is accompanied by evidence that:

(a) the applicant:

(i) has undertaken a language test specified by the Minister in a legislative instrument made for this paragraph; and

(ii) has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in

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accordance with the requirements (if any) specified by the Minister in the instrument; or

(b) the applicant holds a passport of a type specified by the Minister in a legislative instrument made for this paragraph.

476.22—Criteria to be satisfied at time of decision

476.222

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

476.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

476.224

Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 476 visa, is a person who:

(d) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010 and 4020; and

(da) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and

(e) if the person has previously been in Australia—satisfies special return criteria 5001, 5002 and 5010.

476.225

If a person (the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) is less than 18; and

(c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied for the additional applicant.

476.226

Grant of the visa would not result in either:

(a) the number of Subclass 476 visas granted in a financial year exceeding the maximum number of Subclass 476 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or

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(b) the number of visas of particular classes (including Subclass 476) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

476.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

476.31—Criteria to be satisfied at time of application

476.311

The applicant:

(a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 476.21, and made a combined application with that person; or

(b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 476 visa.

476.32—Criteria to be satisfied at time of decision

476.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 476 visa.

476.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010, 4020 and 4021; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

476.323

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

476.324

If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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Clause 476.411

476.4—Circumstances applicable to grant

476.411

(1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.

(2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.

476.412

In any other case, an applicant may be in or outside Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

476.5—When visa is in effect

476.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

476.512

(1) Despite clause 476.511, a visa to which subclause (2) or (3) of this clause applies is a temporary visa permitting the holder to travel to, enter and remain in Australia until 14 April 2024.

(2) This subclause applies to a Subclass 476 visa at and after the end of the date (the ***original end date***) specified by the Minister in relation to the visa as mentioned in clause 476.511 if:
  (a) the visa was granted on the basis that the person to whom it was granted satisfied the primary criteria for the grant of the visa; and
  (b) the person was outside Australia on a day to which all of the following subparagraphs apply:
    (i) the day occurred on or before the original end date;
    (ii) the day occurred between 1 February 2020 and 14 December 2021;
    (iii) the visa was in effect on the day; and
  (c) the original end date occurs before 14 April 2024; and
  (d) the visa is not cancelled on or before the original end date.

(3) This subclause applies to a Subclass 476 visa held by a person if:

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(a) the visa was granted 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***) granted on the basis of satisfying the primary criteria for the grant of a Subclass 476 visa; and
(b) subclause (2) applies to the primary visa.

476.6—Conditions

476.611

If the applicant is outside Australia when the visa is granted:
(a) first entry must be made before a date specified by the Minister for the purpose; and
(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
(c) condition 8515 may be imposed.

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Subclass 482—Skills in Demand

482.1—Interpretation

482.111

In this Part:

nominated occupation, in relation to an applicant, means the occupation nominated by the nomination identified in the application.

482.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 482 visa include criteria set out in streams.

An applicant must satisfy the criteria in Subdivision 482.21 and also in one of Subdivisions 482.22 to 482.24.

The primary criteria must be satisfied by the applicant for a visa in a stream.

The other members of the applicant's family unit who are applicants for a visa of this subclass must satisfy the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

482.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 482 visa.

482.211

If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

482.212

(1) Each of the following applies:
  (a) the nomination identified in the application has been approved under section 140GB of the Act;
  (b) the person who made the nomination was an approved work sponsor at the time the nomination was approved;
  (c) the approval of the nomination has not ceased under regulation 2.75.

(2) Both of the following apply:
  (a) the applicant's intention to perform the nominated occupation is genuine;
  (b) the position associated with the nominated occupation is genuine.

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482.213

Either:

(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

482.214

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

482.215

If the nominated occupation is a medical practitioner, the applicant's qualifications are recognised by the relevant authority in Australia for the registration of medical practitioners as entitling the applicant to practise as a medical practitioner.

482.216

Either:

(a) there is no adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person.

482.217

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

482.218

The applicant satisfies special return criteria 5001, 5002 and 5010.

482.22—Criteria for Specialist Skills stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 482 visa in the Specialist Skills stream.

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Clause 482.221

482.221

(1) The Minister is satisfied that:
  (a) the applicant has carried out (whether on a full-time, part-time or casual basis) a period or periods of work in the nominated occupation or a related field; and
  (b) the total period of work carried out is, or is equivalent to, at least 12 months full-time work; and
  (c) the period or periods of work were carried out during the period of 5 years ending immediately before the day the application was made.

(2) The applicant has the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation.

(3) If the Minister requires the applicant to demonstrate that the applicant has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that the applicant has those skills in the manner specified by the Minister.

482.222

(1) The applicant satisfies any language test requirements specified for the applicant by the Minister in a legislative instrument made for the purposes of this subclause.

(2) If the Minister requires the applicant to demonstrate the applicant's English language proficiency, the applicant demonstrates their English language proficiency in the manner specified by the Minister.

482.223

Unless the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13):
  (a) the applicant is employed to work in the nominated occupation; and
  (b) the applicant is employed to work in a position in:
    (i) if the person who nominated the nominated occupation was an overseas business sponsor at the time the nomination was approved—the person's business; or
    (ii) if the person who nominated the nominated occupation was not an overseas business sponsor at the time the nomination was approved—the person's business or a business of an associated entity of the person.

482.23—Criteria for Core Skills stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 482 visa in the Core Skills stream.

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482.231

(1) The Minister is satisfied that:
  (a) the applicant has carried out (whether on a full-time, part-time or casual basis) a period or periods of work in the nominated occupation or a related field; and
  (b) the total period of work carried out is, or is equivalent to, at least 12 months full-time work; and
  (c) the period or periods of work were carried out during the period of 5 years ending immediately before the day the application was made.

(2) The applicant has the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation.

(3) If the Minister requires the applicant to demonstrate that the applicant has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that the applicant has those skills in the manner specified by the Minister.

482.232

(1) The applicant satisfies any language test requirements specified for the applicant by the Minister in a legislative instrument made for the purposes of this subclause.

(2) If the Minister requires the applicant to demonstrate the applicant's English language proficiency, the applicant demonstrates their English language proficiency in the manner specified by the Minister.

482.233

Unless the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13):
  (a) the applicant is employed to work in the nominated occupation; and
  (b) the applicant is employed to work in a position in:
    (i) if the person who nominated the nominated occupation was an overseas business sponsor at the time the nomination was approved—the person's business; or
    (ii) if the person who nominated the nominated occupation was not an overseas business sponsor at the time the nomination was approved—the person's business or a business of an associated entity of the person.

482.24—Criteria for Labour Agreement stream

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 482 visa in the Labour Agreement stream.

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Clause 482.241

482.241

Both:

(a) the nominated occupation is the subject of a work agreement between the Minister and the person who nominated the nominated occupation; and

(b) 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 visa.

482.242

Either:

(a) all of the following apply:

(i) the applicant has carried out (whether on a full-time, part-time or casual basis) a period or periods of work in the nominated occupation or a related field;

(ii) the total period of work carried out is, or is equivalent to, at least 12 months full-time work;

(iii) the period or periods of work were carried out during the period of 5 years ending immediately before the day the application was made; or

(b) the applicant has worked in the nominated occupation or a related field for the period (if any) specified by the Minister in the work agreement mentioned in clause 482.241:

(i) for the nominated occupation; and

(ii) for the visa.

482.242A

(1) The applicant has the skills, qualifications and employment background (if any) specified by the Minister in the work agreement mentioned in clause 482.241:

(a) for the nominated occupation; and

(b) for the visa.

(2) The applicant demonstrates that they have the skills that are necessary to perform the tasks of the nominated occupation in the manner (if any) specified by the Minister in the work agreement mentioned in clause 482.241:

(a) for the nominated occupation; and

(b) for the visa.

(3) If a manner specified in the work agreement for the purposes of subclause (2) is that the applicant's skills must be assessed as suitable for the nominated occupation, all of the following apply:

(a) the applicant's skills have been assessed as suitable for the nominated occupation by:

(i) if there is a relevant assessing authority for the occupation—the relevant assessing authority for the occupation; or

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(ii) otherwise—the person or body specified by the Minister in the work agreement for the occupation;

(b) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period has not ended;

(c) if paragraph (b) does not apply—not more than 3 years have passed since the date of the assessment.

482.243

(1) The applicant satisfies any language test requirements (if any) specified by the Minister in the work agreement mentioned in clause 482.241:

(a) for the nominated occupation; and

(b) the visa.

(2) The applicant demonstrates their English language proficiency in the manner (if any) specified by the Minister in the work agreement mentioned in clause 482.241:

(a) for the nominated occupation; and

(b) for the visa.

482.3—Secondary criteria

482.311

If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

482.312

(1) The applicant is a member of the family unit of a person (the ***primary applicant***) who, having satisfied the primary criteria, is the holder of a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa or a Subclass 482 (Temporary Skill Shortage) visa.

(2) If the applicant is a member of the family unit of the primary applicant in the circumstances described in subregulation 1.12(5), the applicant:

(a) is a spouse or de facto partner of the primary applicant; or

(b) is a child or step-child of the primary applicant or of a spouse or de facto partner of the primary applicant (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 23; or

(ii) has turned 23 and is under paragraph 1.05A(1)(b) dependent on the primary applicant or on the spouse or de facto partner of the primary applicant; or

(c) is a dependent child of a person who meets the conditions in paragraph (b).

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Clause 482.313

482.313

Either:

(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

482.314

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

482.315

Either:

(a) the applicant is listed on the nomination identified in the primary applicant's application; or

(b) the approved work sponsor or former approved work sponsor who has the most recent approved nomination under section 140GB of the Act of an occupation in relation to the primary applicant for the visa mentioned in subclause 482.312(1) has agreed in writing that the applicant may be a secondary sponsored person in relation to the approved work sponsor or former approved work sponsor.

482.316

Either:

(a) there is no adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person; or

(b) it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person.

482.317

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4013, 4014, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant had not turned 18 at the time of application, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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482.318

The applicant satisfies special return criteria 5001, 5002 and 5010.

482.4—Circumstances applicable to grant

482.411

The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

482.5—When visa is in effect

482.511

(1) A temporary visa permitting the holder:

(a) to travel to, and enter, Australia on multiple occasions; and

(b) to remain in Australia;

during the period that:

(c) starts when the visa comes into effect; and

(d) ends in accordance with the following table.

End of visa period

Item	Column 1 If …	Column 2 the period ends at …
1	(a) the holder satisfied the primary criteria for the grant of the visa; and (b) item 2 does not apply;	the end of the period of stay proposed in the nomination identified in the application for the visa, starting on the date of grant of the visa.
2	the holder: (a) satisfied the primary criteria for the grant of the visa; and (b) on the date of grant of the visa, holds: (i) a Hong Kong passport in a class specified under subclause (2) of this clause; or (ii) a British National (Overseas) passport;	the end of the period of 5 years starting on the date of grant of the visa.
3	(a) the holder satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***): (i) a Subclass 457 (Temporary Work (Skilled)) visa; (ii) a Subclass 482 (Skills in Demand) visa; and	the end of the period the primary applicant is permitted to remain in Australia under the primary visa.

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Clause 482.511

End of visa period		
Item	**Column 1** **If …**	**Column 2** **the period ends at …**
	(b) items 4 and 5 do not apply;	
4	(a) the holder (the ***secondary applicant***) satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit, in the circumstances described in subparagraph 1.12(2)(b)(ii) or subregulation 1.12(5), of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***): (i) a Subclass 457 (Temporary Work (Skilled)) visa; (ia) a Subclass 482 (Skills in Demand) visa; (ii) a Subclass 482 (Temporary Skill Shortage) visa; and (b) the secondary applicant is not dependent on the primary applicant or the spouse or de facto partner of the primary applicant in the circumstances described in paragraph 1.05A(1)(b); and (c) item 5 of this table does not apply;	the earlier of: (a) the end of the period the primary applicant is permitted to remain in Australia under the primary visa; and (b) the end of the day before the secondary applicant's 23rd birthday.
5	(a) the holder (the ***secondary applicant***) satisfied the secondary criteria for the grant of the visa (the ***secondary visa***) as a member of the family unit of a person (the ***primary applicant***) who satisfied the primary criteria for the grant of one of the following visas (the ***primary visa***): (i) a Subclass 457 (Temporary Work (Skilled)) visa; (ia) a Subclass 482 (Skills in Demand) visa; (ii) a Subclass 482 (Temporary Skill Shortage) visa; and (b) on the date of grant of the primary visa, the primary applicant holds: (i) a Hong Kong passport; or (ii) a British National (Overseas) passport; and (c) if: (i) the primary visa is a Subclass 482 (Temporary Skill Shortage) visa granted on or after 9 July 2020 or a Subclass 482 (Skills in Demand) visa granted on or after 7 December 2024; and (ii) on the date of grant of the primary visa, the primary applicant holds a Hong Kong passport and does not hold a British National (Overseas) passport;	the end of the period the primary applicant is permitted to remain in Australia under the primary visa.

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End of visa period		
Item	**Column 1** **If …**	**Column 2** **the period ends at …**
	the Hong Kong passport is, on the date of grant of the primary visa, in a class specified under subclause (2) of this clause;	

(2) The Minister may, by legislative instrument, specify a class of Hong Kong passports for the purposes of items 2 and 5 of the table in subclause (1).

482.6—Conditions

482.611

If the applicant satisfies the primary criteria for the grant of the visa, condition 8607 must be imposed.

482.612

Condition 8501 must be imposed.

482.613

Condition 8303 may be imposed.

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Subclass 485—Temporary Graduate

485.1—Interpretation

485.111

In this Part:

associate degree means an associate degree, under the Australian Qualifications Framework, that is awarded by a body authorised to award associate degrees.

completed, in relation to an associate degree, degree, diploma or trade qualification, means having met the academic requirements for its award.

Note: The academic requirements for the award of an associate degree, degree, diploma or trade qualification do not include the formal conferral of the associate degree, degree, diploma or trade qualification. Therefore, a person can complete an associate degree, degree, diploma or trade qualification, for the purposes of this definition, before the award is formally conferred.

degree means a formal educational qualification, under the Australian Qualifications Framework, awarded by an Australian educational institution as a bachelor degree, a masters degree, a doctoral degree or a graduate diploma for which:

(a) the entry level to the course leading to the qualification is satisfactory completion of:
  (i) in the case of a bachelor degree—year 12 in the Australian school system or of equivalent schooling; and
  (ii) in the case of a masters degree—a bachelor degree awarded at an Australian educational institution or of an equivalent award; and
  (iii) in the case of a doctoral degree—a bachelor degree awarded with honours, or a masters degree, at an Australian educational institution or of an equivalent award; and
  (iv) in the case of a graduate diploma—a degree (the ***preceding degree for the graduate diploma***) to which subparagraph (i), (ii) or (iii) applies; and

(b) in the case of a graduate diploma—the course leading to the qualification:
  (i) is a related course of study to the course leading to the award of the preceding degree for the graduate diploma; and
  (ii) is commenced within the same, or the next, academic year as the academic year in which the preceding degree for the graduate diploma was completed.

diploma has the same meaning as in subregulation 2.26AC(6).

trade qualification has the same meaning as in subregulation 2.26AC(6).

Note 3: For ***registered course***, ***relevant assessing authority*** and ***skilled occupation***, see regulation 1.03.

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485.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 485 visa include criteria set out in streams.

If an applicant applies for a Subclass 485 visa in the Post-Vocational Education Work stream, the criteria in Subdivisions 485.21 and 485.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 485 visa in the Post-Higher Education Work stream, the criteria in Subdivisions 485.21 and 485.23 are the primary criteria.

If an applicant applies for a Subclass 485 visa in the Replacement stream, the criteria in Subdivision 485.21 are the primary criteria. There are no additional primary criteria for the Replacement stream.

The primary criteria must be satisfied by at least one member of a family unit.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application, unless otherwise stated.

485.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa.

485.211

The applicant:

(a) has not previously held a Subclass 476 (Skilled — Recognised Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and

(b) has not previously held a Subclass 485 (Temporary Graduate) visa in the Graduate Work stream or the Post-Vocational Education Work stream on the basis of satisfying the primary criteria for the grant of that visa; and

(c) has not previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or the Post-Higher Education Work stream on the basis of satisfying the primary criteria for the grant of that visa, unless the applicant:

(i) has nominated the Post-Higher Education Work stream in the application; and

(ii) meets the requirements of clause 485.232, 485.233, 485.234 or 485.235; and

(d) has not previously held the following:

(i) 3 Subclass 485 (Temporary Graduate) visas in the Post-Study Work stream;

(ii) 2 Subclass 485 (Temporary Graduate) visas in the Post-Higher Education Work stream.

485.212

(1) The application was accompanied by evidence that:

(a) the applicant:

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(i) has undertaken a language test specified by the Minister in a legislative instrument made for this paragraph; and

(ii) has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument; or

(b) the applicant holds a passport of a type specified by the Minister in a legislative instrument made for this paragraph.

(2) Subclause (1) does not apply to an applicant:

(b) who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235; or

(c) who nominated the Replacement stream in the application.

485.213

(1) When the application was made, it was accompanied by evidence that:

(a) the applicant; and

(b) each person included in the application who is at least 16;

had applied for an Australian Federal Police check during the 12 months immediately before the day the application is made.

(2) Subclause (1) does not apply to an applicant who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

485.215

(1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements for health insurance.

(2) The applicant has had adequate arrangements for health insurance since the time the application was made.

485.216

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 485 visa satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010 and 4020.

(4) Each member of the family unit of the applicant who:

(a) is an applicant for a Subclass 485 visa; and

(b) had turned 18 at the time of application;

satisfies public interest criteria 4019.

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(5) Each member of the family unit of the applicant who:
  (a) is an applicant for a Subclass 485 visa; and
  (b) has not turned 18; and
  (c) made a combined application with the applicant;
satisfies public interest criteria 4015 and 4016.

485.217

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who:
  (a) is an applicant for a Subclass 485 visa; and
  (b) has previously been in Australia;
satisfies special return criteria 5001, 5002 and 5010.

485.218

Grant of the visa would not result in either:
  (a) the number of Subclass 485 visas granted in a financial year exceeding the maximum number of Subclass 485 visas specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
  (b) the number of visas of particular classes (including Subclass 485) granted in a financial year exceeding the maximum number of visas of those classes, specified by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

485.22—Criteria for Post-Vocational Education Work stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 485 visa in the Post-Vocational Education Work stream.

485.221

The applicant, in the period of 6 months immediately before the day the application was made, completed one or more associate 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.

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Clause 485.222

485.222

Each associate degree, diploma or trade qualification used to satisfy clause 485.221 is closely related to the applicant's nominated skilled occupation.

485.223

When the application was made, it was accompanied by evidence that the applicant had applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority for that occupation.

485.224

(1) The skills of the applicant for the applicant's nominated skilled occupation have been assessed, during the last 3 years, by a relevant assessing authority for the occupation as suitable for that occupation.

(1A) If the assessment is expressed to be valid for a particular period, that period has not ended.

(2) If the applicant's skills were assessed on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

485.23—Criteria for Post-Higher Education Work stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 visa in the Post-Higher Education Work stream.

485.231

(1A) This clause does not apply to an applicant who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

(1B) The applicant, in the period of 6 months immediately before the day the application was made, completed one or more degrees for award by Australian educational institutions 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: For the definition of ***degree***, see clause 485.111.

(1) Each degree mentioned in subclause (1B) is held by the applicant, and is a degree of a kind specified by the Minister in an instrument in writing for this subclause.

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(2) Each degree mentioned in subclause (1B) was conferred or awarded by an educational institution specified by the Minister in an instrument in writing for this subclause.

485.232

(1) This clause applies to an applicant for a visa (the ***second visa***):
  (a) who held a Subclass 485 (Temporary Graduate) visa (the ***first visa***) in the Post-Study Work stream or the Post-Higher Education Work stream when the application for the second visa was made; and
  (b) who was granted the first visa on the basis of study undertaken in a regional centre or other regional area at an educational institution located in the regional centre or other regional area; and
  (c) who declared in the application for the second visa that the applicant, and any member (the ***family member***) of the applicant's family unit who made a combined application with the applicant, intend:
    (i) to live only in a regional centre or other regional area; and
    (ii) if the applicant or the family member also intends to work or study—to work or study only in a regional centre or other regional area.

(2) The applicant must have:
  (a) lived only in a regional centre or other regional area while undertaking the study mentioned in paragraph (1)(b); and
  (b) lived only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the second visa; and
  (c) if the applicant also worked or studied—worked or studied only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the second visa.

(3) At the time of the decision on the application for the second visa:
  (a) the applicant lives only in a regional centre or other regional area; and
  (b) if the applicant also works or studies at that time—the applicant works or studies only in a regional centre or other regional area.

485.233

(1) This clause applies to an applicant for a visa (the ***second visa***):
  (a) who held a Subclass 485 (Temporary Graduate) visa (the ***first visa***) in the Post-Study Work stream or the Post-Higher Education Work stream when the application for the second visa was made; and
  (b) who was granted the first visa on the basis of study undertaken in a designated regional area at an educational institution located in the designated regional area; and
  (c) to whom clause 485.232 does not apply.

(2) The applicant must have:
  (a) lived only in a designated regional area while undertaking the study mentioned in paragraph (1)(b); and

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(b) lived only in a designated regional area for a period of at least 2 years immediately before applying for the second visa; and

(c) if the applicant also worked or studied—worked or studied only in a designated regional area for a period of at least 2 years immediately before applying for the second visa.

(3) At the time of the decision on the application for the second visa:

(a) the applicant lives only in a designated regional area; and

(b) if the applicant also works or studies at that time—the applicant works or studies only in a designated regional area.

(4) The applicant declared in the application for the second visa that the applicant, and any member (the ***family member***) of the applicant's family unit who made a combined application with the applicant, intend:

(a) to live only in a designated regional area; and

(b) if the applicant or the family member also works or studies (or proposes to work or study)—to work or study only in a designated regional area.

485.234

(1) This clause applies to an applicant for a visa (the ***subsequent visa***):

(a) who previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of study undertaken in a regional centre or other regional area at an educational institution located in the regional centre or other regional area; and

(b) who held, at the time the application for the subsequent visa was made:

(i) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or

(ii) a Subclass 485 (Temporary Graduate) visa in the Replacement stream; and

(c) who declared in the application for the subsequent visa that the applicant, and any member (the ***family member***) of the applicant's family unit who made a combined application with the applicant, intend:

(i) to live only in a regional centre or other regional area; and

(ii) if the applicant or the family member also intends to work or study—to work or study only in a regional centre or other regional area.

(2) The applicant must have:

(a) lived only in a regional centre or other regional area while undertaking the study mentioned in paragraph (1)(a); and

(b) lived only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the subsequent visa; and

(c) if the applicant also worked or studied—worked or studied only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the subsequent visa.

(3) At the time of the decision on the application for the subsequent visa:

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(a) the applicant lives only in a regional centre or other regional area; and
(b) if the applicant also works or studies at that time—the applicant works or studies only in a regional centre or other regional area.

485.235

(1) This clause applies to an applicant for a visa (the ***subsequent visa***):
(a) who previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of study undertaken in a designated regional area at an educational institution located in the designated regional area; and
(b) who held, at the time the application for the subsequent visa was made:
(i) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
(ii) a Subclass 485 (Temporary Graduate) visa in the Replacement stream; and
(c) to whom clause 485.234 does not apply.

(2) The applicant must have:
(a) lived only in a designated regional area while undertaking the study mentioned in paragraph (1)(a); and
(b) lived only in a designated regional area for a period of at least 2 years immediately before applying for the subsequent visa; and
(c) if the applicant also worked or studied—worked or studied only in a designated regional area for a period of at least 2 years immediately before applying for the subsequent visa.

(3) At the time of the decision on the application for the subsequent visa:
(a) the applicant lives only in a designated regional area; and
(b) if the applicant also works or studies at that time—the applicant works or studies only in a designated regional area.

(4) The applicant declared in the application for the subsequent visa that the applicant, and any member (the ***family member***) of the applicant's family unit who made a combined application with the applicant, intend:
(a) to live only in a designated regional area; and
(b) if the applicant or the family member also works or studies (or proposes to work or study)—to work or study only in a designated regional area.

485.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

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Clause 485.311

485.31—Criteria

485.311

The applicant:

(a) is a member of the family unit of a person who holds a Subclass 485 visa granted on the basis of satisfying the primary criteria for the grant of the visa, and made a combined application with that person; or

(b) is a member of the family unit of a person who holds a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 485 visa.

485.312

(1) When the application was made, it was accompanied by evidence that the applicant had adequate arrangements for health insurance.

(2) The applicant has had adequate arrangements for health insurance since the time the application was made.

485.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

485.314

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

485.4—Circumstances applicable to grant

485.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

485.5—When visa is in effect

485.513

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

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485.6—Conditions

485.611

Condition 8501 must be imposed.

485.612

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before a date specified by the Minister for the purpose; and

(b) condition 8515 may be imposed.

485.613

(1) If the applicant is granted a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235, condition 8610 must be imposed.

(2) If the applicant is granted a Subclass 485 (Temporary Graduate) visa on the basis of satisfying the secondary criteria in relation to a primary applicant mentioned in subclause (1), condition 8610 must be imposed.

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Subclass 489—Skilled—Regional (Provisional)

489.1—Interpretation

Note 1: For ***designated area***, ***registered course***, ***relevant assessing authority*** and ***skilled occupation***: see regulation 1.03.

Note 2: Regulation 1.03 also provides that ***competent English*** has the meaning set out in regulation 1.15C.

Note 3: There are no interpretation provisions specific to this Part.

489.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 489 visa include criteria set out in streams.

If an applicant applies for a Subclass 489 visa in the First Provisional Visa stream, the criteria in Subdivisions 489.21 and 489.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 489 visa in the Second Provisional Visa stream, the criteria in Subdivisions 489.21 and 489.23 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit, unless a member of the family unit holds one of the following visas on the basis of satisfying the primary criteria:

- a Skilled—Independent Regional (Class UX) visa;
- a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
- a Subclass 475 (Skilled—Regional Sponsored) visa;
- a Subclass 487 (Skilled—Regional Sponsored) visa.

The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

489.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 489 visa.

489.211

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 489 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4010 and 4020.

(4) Each member of the family unit of the primary applicant who:
  (a) is an applicant for a Subclass 489 visa; and
  (b) had turned 18 at the time of application;
satisfies public interest criterion 4019.

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(5) Each member of the family unit of the primary applicant who:
  (a) is an applicant for a Subclass 489 visa; and
  (b) has not turned 18;
satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the primary applicant who is not an applicant for a Subclass 489 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

489.212

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 489 visa satisfies special return criteria 5001, 5002 and 5010.

489.22—Criteria for First Provisional Visa stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 489 visa in the First Provisional Visa stream.

489.221

The applicant was invited, in writing, by the Minister to apply for the visa.

489.222

(1) At the time of invitation to apply for the visa:
  (a) the relevant assessing authority had assessed the applicant's skills as suitable for the applicant's nominated skilled occupation; and
  (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and
  (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and
  (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

489.223

At the time of invitation to apply for the visa, the applicant had competent English.

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Clause 489.224

489.224

(1) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6D of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

489.225

(1) The requirements in subclause (2) or (3) are met.

(2) The nominating State or Territory government agency has not withdrawn the nomination.

(3) The Minister has accepted the sponsorship of the applicant by a person in the following circumstances:

(a) the person has turned 18; and

(b) the person is an Australian citizen, Australian permanent resident or eligible New Zealand citizen;

(c) the person is usually resident in a designated area of Australia;

(d) the person is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is an applicant for a Subclass 489 visa), as:

(i) a parent; or

(ii) a child or step-child; or

(iii) a brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; or

(iv) an aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle;

(v) a nephew, niece, adoptive nephew, adoptive niece, step-nephew or step-niece; or

(vi) a grandparent; or

(vii) a first cousin;

(e) each member of the family unit of the applicant who is an applicant for a Subclass 489 visa is sponsored by that person.

489.226

(1) The applicant satisfies public interest criterion 4005.

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(2) Each member of the family unit of the applicant who is an applicant for a Subclass 489 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 489 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

489.23—Criteria for Second Provisional Visa stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 489 visa in the Second Provisional Visa stream.

489.231

(1) If the applicant has previously held one of the following visas:
   (a) a Skilled—Independent Regional (Provisional) (Class UX) visa;
   (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
   (c) a Subclass 475 (Skilled—Regional Sponsored) visa;
   (d) a Subclass 487 (Skilled—Regional Sponsored) visa;

   the applicant has substantially complied with the conditions to which the visa was subject.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 489 visa, and who has previously held a visa mentioned in subclause (1), has substantially complied with the conditions to which the visa mentioned in subclause (1) was subject.

489.232

(1) The applicant satisfies public interest criterion 4007.

(2) Each person who is a member of the family unit of the applicant, and is an applicant for a Subclass 489 visa, satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 489 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

489.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who:
(a) satisfies the primary criteria; or
(b) holds one of the following visas on the basis of satisfying the primary criteria:
- a Skilled—Independent Regional (Provisional) (Class UX) visa;
- a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
- a Subclass 475 (Skilled—Regional Sponsored) visa;
- a Subclass 487 (Skilled—Regional Sponsored) visa.

All criteria must be satisfied at the time a decision is made on the application.

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Clause 489.311

489.31—Criteria

489.311

The applicant is a member of the family unit of a person (the primary applicant) who holds any of the following visas granted on the basis of satisfying the primary criteria:

(a) a Skilled—Independent Regional (Provisional) (Class UX) visa;
(b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
(c) a Subclass 475 (Skilled—Regional Sponsored) visa;
(d) a Subclass 487 (Skilled—Regional Sponsored) visa;
(e) a Subclass 489 (Skilled—Regional (Provisional)) visa.

489.312

If the applicant previously held:

(a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
(b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
(c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
(d) a Subclass 487 (Skilled—Regional Sponsored) visa;

the applicant has substantially complied with the conditions of that visa.

489.313

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 489 visa in the Second Provisional Visa stream, the applicant satisfies public interest criterion 4007.

(5) If subclause (4) does not apply, the applicant satisfies public interest criterion 4005.

489.314

The applicant satisfies special return criteria 5001, 5002 and 5010.

489.4—Circumstances applicable to grant

489.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

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Note: The second instalment of visa application charge must be paid before the visa can be granted.

489.5—When visa is in effect

489.511

(1) If the applicant satisfied the primary criteria for the grant of a Subclass 489 visa in the First Provisional Visa stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 4 years from the date of grant.

(2) However, if:
  (a) disregarding this subclause, the visa is in effect on any day between 1 February 2020 and 14 December 2021; and
  (b) the holder of the visa is outside Australia on that day;
the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 7 years from the date of grant.

489.512

(1) If the applicant satisfied the primary criteria for the grant of a Subclass 489 visa in the Second Provisional Visa stream, temporary visa permitting the holder to travel to, enter and remain in Australia for 4 years after the date (the ***starting date***) of grant of the provisional visa the applicant held at the time of application.

(2) However, if:
  (a) disregarding this subclause, the visa is in effect on any day between 1 February 2020 and 14 December 2021; and
  (b) the holder of the visa is outside Australia on that day;
the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 7 years after the starting date.

489.513

If the applicant is a member of the family unit of a person who holds a Subclass 489 visa in the First Provisional Visa stream or the Second Provisional Visa stream, temporary visa permitting the holder to travel to, enter and remain in Australia until the day specified for the applicant who satisfied the primary criteria.

489.514

If the applicant is a member of the family unit of a person who holds:
  (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
  (c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
  (d) a Subclass 487 (Skilled—Regional Sponsored) visa;

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temporary visa permitting the holder to travel to, enter and remain in Australia until the day specified for the applicant who satisfied the primary criteria for the grant of the visa mentioned in paragraph (a), (b), (c) or (d).

489.6—Conditions

489.611

If the applicant who satisfied the primary criteria for the grant of the visa was nominated by a State or Territory government agency, condition 8539 must be imposed.

489.612

If the applicant who satisfied the primary criteria for the grant of the visa was sponsored by a person, condition 8549 must be imposed.

489.613

(1) If condition 8539 was imposed on the visa held at the time of application by the applicant who satisfied the primary criteria for the grant of the visa in the Second Provisional Visa stream, condition 8539 must be imposed.

(2) If:
  (a) an applicant is granted a Subclass 489 visa on the basis of satisfying the secondary criteria; and
  (b) the applicant who satisfied the primary criteria also holds another General Skilled Migration visa on which condition 8539 has been imposed;

condition 8539 must be imposed.

489.614

(1) If condition 8549 was imposed on the visa held at the time of application by the applicant who satisfied the primary criteria for the grant of the visa in the Second Provisional Visa stream, condition 8549 must be imposed.

(2) If:
  (a) an applicant is granted a Subclass 489 visa on the basis of satisfying the secondary criteria; and
  (b) the applicant who satisfied the primary criteria also holds another General Skilled Migration visa on which condition 8549 has been imposed;

condition 8549 must be imposed.

489.615

If the applicant is outside Australia when the visa is granted:
  (a) first entry must be made before a date specified by the Minister; and

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(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

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Subclass 491—Skilled Work Regional (Provisional)

491.1—Interpretation

Note 1: For ***competent English***, ***designated regional area***, ***registered course***, ***relevant assessing authority*** and ***skilled occupation***, see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

491.2—Primary criteria

Note 1: The primary criteria for the grant of a Subclass 491 visa must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

Note 2: All criteria must be satisfied at the time a decision is made on the application.

491.211

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 491 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.

(4) Each member of the family unit of the applicant who:
  (a) is an applicant for a Subclass 491 visa; and
  (b) had turned 16 at the time of application;
satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:
  (a) is an applicant for a Subclass 491 visa; and
  (b) has not turned 18;
satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 491 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4005, unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

491.212

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 491 visa satisfies special return criteria 5001, 5002 and 5010.

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491.213

The applicant was invited, in writing, by the Minister to apply for the visa.

491.214

(1) At the time of invitation to apply for the visa:
  (a) the relevant assessing authority for the applicant's nominated skilled occupation had assessed the applicant's skills as suitable for that occupation; and
  (b) the assessment was not for a Subclass 485 (Temporary Graduate) visa; and
  (c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended; and
  (d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(2) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

491.215

At the time of invitation to apply for the visa, the applicant had competent English.

491.216

(1) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the score stated in the invitation to apply for the visa.

(2) The applicant's score, when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act, is not less than the qualifying score for that Subdivision.

Note: Subdivision B of Division 3 of Part 2 of the Act provides for the application of a points system under which applicants for relevant visas are given an assessed score based on a prescribed number of points for particular attributes, assessed against the relevant pool mark and pass mark: see sections 92 to 96 of the Act.

The prescribed points and the manner of their allocation are provided for in Division 2.6 of Part 2, and Schedule 6D, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument: see section 96 of the Act.

491.217

(1) If the applicant is nominated by a State or Territory government agency, the nomination has not been withdrawn.

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(2) If the applicant declared in the application that the applicant is sponsored by a person (the ***sponsor***), the Minister has accepted the sponsorship of the applicant by the sponsor in the following circumstances:

(a) the sponsor has turned 18;

(b) the sponsor is an Australian citizen, Australian permanent resident or eligible New Zealand citizen;

(c) the sponsor is usually resident in a designated regional area;

(d) 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 also an applicant for a Subclass 491 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;

(e) each member of the family unit of the applicant who is also an applicant for a Subclass 491 visa is sponsored by the sponsor.

491.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

491.311

The applicant is a member of the family unit of a person who holds a Subclass 491 visa granted on the basis of satisfying the primary criteria for the grant of the visa.

491.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.

(2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

491.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

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491.4—Circumstances applicable to grant

491.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

491.5—When visa is in effect

491.511

(1) If the applicant satisfies the primary criteria for the grant of the visa, temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant.

(2) However, if:
(a) the visa is in effect on any day between 1 February 2020 and 14 December 2021; and
(b) the holder of the visa is outside Australia on that day; and
(c) disregarding this subclause, the visa is in effect on 18 February 2022;

the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 8 years from the date of grant.

491.512

(1) If:
(a) the applicant satisfies the secondary criteria for the grant of the visa (the ***secondary visa***); and
(b) the applicant is a member of the family unit of a person (the ***primary visa holder***) who holds a Subclass 491 visa granted on the basis of satisfying the primary criteria for the grant of that visa;

temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant of the primary visa holder's visa.

(2) However, if:
(a) the primary visa holder's visa is in effect on any day between 1 February 2020 and 14 December 2021; and
(b) the primary visa holder is outside Australia on that day; and
(c) the primary visa holder's visa is in effect on 18 February 2022; and
(d) the secondary visa:
(i) is granted before 18 February 2022 and, disregarding this subclause, is in effect on 18 February 2022; or
(ii) is granted on or after 18 February 2022;

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the secondary visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 8 years from the date of grant of the primary visa holder's visa.

491.6—Conditions

491.611

If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before the date specified by the Minister; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

491.612

Conditions 8578, 8579, 8580 and 8581 must be imposed.

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Subclass 494—Skilled Employer Sponsored Regional (Provisional)

494.1—Interpretation

494.111

In this Part:

nominated occupation, in relation to an applicant, means the occupation nominated by the nomination identified in the application.

Note: For ***relevant assessing authority***: see regulation 1.03.

494.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 494 visa include criteria set out in streams.

If an applicant applies for a Subclass 494 visa in the Employer Sponsored stream, the criteria in Subdivisions 494.21 and 494.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 494 visa in the Labour Agreement stream, the criteria in Subdivisions 494.21 and 494.23 are the primary criteria.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

494.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 494 visa.

494.211

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

(3) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.

(4) Each member of the family unit of the applicant who:
(a) is an applicant for a Subclass 494 visa; and
(b) had turned 16 at the time of application;
satisfies public interest criterion 4019.

(5) Each member of the family unit of the applicant who:

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(a) is an applicant for a Subclass 494 visa; and
(b) has not turned 18;

satisfies public interest criteria 4015 and 4016.

(6) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

494.212

(1) The applicant satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies special return criteria 5001, 5002 and 5010.

494.213

(1) Each of the following applies:
(a) the nomination identified in the application has been approved under section 140GB of the Act;
(b) the person who made the nomination was an approved work sponsor at the time the nomination was approved;
(c) the approval of the nomination has not ceased under regulation 2.75B.

(2) Both of the following apply:
(a) the applicant's intention to perform the nominated occupation is genuine;
(b) the position associated with the nominated occupation is genuine.

494.214

Either:
(a) there is no adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person; or
(b) it is reasonable to disregard any adverse information known to Immigration about the person who nominated the nominated occupation or a person associated with that person.

494.215

Either:
(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or
(b) both of the following apply:
(i) the applicant has engaged in such conduct in that period;
(ii) the Minister considers that it is reasonable to disregard the conduct.

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494.22—Criteria for Employer Sponsored stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 494 visa in the Employer Sponsored stream.

494.221

(1) The applicant satisfies public interest criterion 4007.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criterion 4007.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criterion 4007, unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

494.222

Unless the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72C(14), both of the following apply:

(a) the applicant is employed to work in the nominated occupation;

(b) the applicant is employed to work in a position in:

(i) the person's business; or

(ii) a business of an associated entity of the person.

494.223

(1) At the time of application:

(a) the applicant had not turned 45; or

(b) circumstances specified by the Minister under subclause (2) existed.

(2) The Minister may, by legislative instrument, specify circumstances in which applicants are not required to have been under 45 for the purposes of Subclass 494 visas in the Employer Sponsored stream.

494.224

(1) At the time of application:

(a) subclauses (2) and (3) applied; or

(b) subclauses (4) and (5) applied; or

(c) circumstances specified by the Minister under subclause (7) existed.

Recent assessments

(2) All of the following applied:

(a) the relevant assessing authority for the applicant's nominated occupation has assessed the applicant's skills as suitable for that occupation;

(b) the assessment was not for a Subclass 485 (Temporary Graduate) visa;

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(c) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period had not ended;

(d) if paragraph (c) did not apply—not more than 3 years had passed since the date of the assessment.

(3) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

Assessments for purposes of previous visas

(4) Both of the following applied:

(a) the applicant held a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa or a Subclass 482 (Temporary Skill Shortage) visa in relation to which all of the following applied:

(i) the occupation to which that visa related was the nominated occupation;

(ii) the applicant was required to demonstrate the matters mentioned in former paragraph 457.223(2)(d) or (4)(e), former subclause 482.212(4) or subclause 482.221(3) or 482.231(3) in relation to that visa;

(iii) that demonstration included demonstrating that a person or body had assessed the applicant's skills as suitable for the occupation;

(iv) the assessment was not for a Subclass 485 (Temporary Graduate) visa;

(b) the person or body mentioned in subparagraph (a)(iii) was specified by the Minister under subclause (6) as the assessing authority for the nominated occupation.

(5) If the assessment was made on the basis of a qualification obtained in Australia while the applicant held a student visa, the qualification was obtained as a result of studying a registered course.

Minister may make legislative instruments

(6) For the purposes of paragraph (4)(b) of this clause, the Minister may, by legislative instrument, specify a person or body as the assessing authority for an occupation.

(7) The Minister may, by legislative instrument, specify circumstances in which the requirements of subclauses (2) to (5) are not required to have been met for the purposes of Subclass 494 visas in the Employer Sponsored stream.

494.225

(1) At the time of application:

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(a) the applicant had been employed in the nominated occupation for at least 3 years on a full-time basis and at the level of skill required for the occupation; or
(b) circumstances specified by the Minister under subclause (2) existed.

(2) The Minister may, by legislative instrument, specify circumstances in which an applicant is not required to have been employed as mentioned in paragraph (1)(a) for the purposes of Subclause 494 visas in the Employer Sponsored stream.

494.226

(1) At the time of application:
(a) the applicant had competent English; or
(b) circumstances specified by the Minister under subclause (2) existed.

(2) The Minister may, by legislative instrument, specify circumstances in which applicants are not required to have had competent English for the purposes of Subclass 494 visas in the Employer Sponsored stream.

Note: Regulation 1.03 provides that ***competent English*** has the meaning set out in regulation 1.15C.

494.23—Criteria for Labour Agreement stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 494 visa in the Labour Agreement stream.

494.231

(1) The applicant satisfies public interest criterion 4005.

(2) Each member of the family unit of the applicant who is an applicant for a Subclass 494 visa satisfies public interest criterion 4005.

(3) Each member of the family unit of the applicant who is not an applicant for a Subclass 494 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

494.232

Both:
(a) the nominated occupation is the subject of a work agreement between the Minister and the person who nominated the nominated occupation; and
(b) 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 visa.

494.233

Either:

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(a) the applicant had not turned 45 at the time of application; or
(b) the applicant has not reached the age specified by the Minister in the work agreement mentioned in clause 494.232:
(i) for the nominated occupation; and
(ii) for the visa.

494.234

(1) The applicant satisfies any language test requirements (if any) specified by the Minister in the work agreement mentioned in clause 494.232:
(a) for the nominated occupation; and
(b) for the visa.

(2) The applicant demonstrates their English language proficiency in the manner (if any) specified by the Minister in the work agreement mentioned in clause 494.232:
(a) for the nominated occupation; and
(b) for the visa.

494.235

(1) The applicant has the skills, qualifications and employment background (if any) specified by the Minister in the work agreement mentioned in clause 494.232:
(a) for the nominated occupation; and
(b) for the visa.

(2) Either:
(a) the applicant has worked in the nominated occupation or a related field for at least 3 years; or
(b) the applicant has worked in the nominated occupation or a related field for the period (if any) specified by the Minister in the work agreement mentioned in clause 494.232:
(i) for the nominated occupation; and
(ii) for the visa.

(3) The applicant demonstrates that they have the skills that are necessary to perform the tasks of the nominated occupation in the manner (if any) specified by the Minister in the work agreement mentioned in clause 494.232:
(a) for the nominated occupation; and
(b) for the visa.

(4) If a manner specified in the work agreement for the purposes of subclause (3) is that the applicant's skills must be assessed as suitable for the nominated occupation, all of the following apply:
(a) the applicant's skills have been assessed as suitable for the nominated occupation by:
(i) if there is a relevant assessing authority for the occupation—the relevant assessing authority for the occupation; or

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(ii) otherwise—the person or body specified by the Minister in the work agreement for the occupation;

(b) if the assessment specified a period during which the assessment was valid, and the period did not end more than 3 years after the date of the assessment—the period has not ended;

(c) if paragraph (b) does not apply—not more than 3 years have passed since the date of the assessment.

494.3—Secondary criteria

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

494.31—Criteria

494.311

The applicant is a member of the family unit of a person (the ***primary applicant***) who holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa.

494.312

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.

(2) If the applicant had turned 16 at the time of application, the applicant satisfies public interest criterion 4019.

(3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

(4) If the primary applicant holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa in the Employer Sponsored stream, the applicant satisfies public interest criterion 4007.

(5) If the primary applicant holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of the visa in the Labour Agreement stream, the applicant satisfies public interest criterion 4005.

494.313

The applicant satisfies special return criteria 5001, 5002 and 5010.

494.314

Either:

(a) the applicant is listed on the nomination identified in the primary applicant's application; or

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(b) the approved work sponsor or former approved work sponsor who has the most recent approved nomination under section 140GB of the Act of an occupation in relation to the primary applicant for the visa mentioned in clause 494.311 has agreed in writing that the applicant may be a secondary sponsored person in relation to the approved work sponsor or former approved work sponsor.

494.315

Either:

(a) there is no adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person; or

(b) the Minister considers that it is reasonable to disregard any adverse information known to Immigration about the person who made the nomination identified in the primary applicant's application or a person associated with that person.

494.316

Either:

(a) the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection 245AR(1), 245AS(1), 245AT(1) or 245AU(1) of the Act; or

(b) both of the following apply:

(i) the applicant has engaged in such conduct in that period;

(ii) the Minister considers that it is reasonable to disregard the conduct.

494.4—Circumstances applicable to grant

494.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

494.5—When visa is in effect

494.511

(1) If the applicant satisfies the primary criteria for the grant of the visa, temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant.

(2) However, if:

(a) the visa is in effect on any day between 1 February 2020 and 14 December 2021; and

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(b) the holder of the visa is outside Australia on that day; and
(c) disregarding this subclause, the visa is in effect on 18 February 2022;

the visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 8 years from the date of grant.

494.512

(1) If:
(a) the applicant satisfies the secondary criteria for the grant of the visa (the ***secondary visa***); and
(b) the applicant is a member of the family unit of a person (the ***primary visa holder***) who holds a Subclass 494 visa granted on the basis of satisfying the primary criteria for the grant of that visa;

temporary visa permitting the holder to travel to, enter and remain in Australia for 5 years from the date of grant of the primary visa holder's visa.

(2) However, if:
(a) the primary visa holder's visa is in effect on any day between 1 February 2020 and 14 December 2021; and
(b) the primary visa holder is outside Australia on that day; and
(c) the primary visa holder's visa is in effect on 18 February 2022; and
(d) the secondary visa:
(i) is granted before 18 February 2022 and, disregarding this subclause, is in effect on 18 February 2022; or
(ii) is granted on or after 18 February 2022;

the secondary visa is a temporary visa permitting the holder to travel to, enter and remain in Australia for 8 years from the date of grant of the primary visa holder's visa.

494.6—Conditions

494.611

If the applicant is outside Australia when the visa is granted:
(a) first entry must be made before the date specified by the Minister; and
(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

494.612

If the applicant satisfies the primary criteria for the grant of the visa, conditions 8578, 8579, 8580, 8581 and 8608 must be imposed.

494.613

If the applicant satisfies the secondary criteria for the grant of the visa, the same conditions (other than condition 8608) that must be imposed on the visa held by

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the person who satisfies the primary criteria for the grant of the visa must be imposed.

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Subclass 500—Student

500.1—Interpretation

500.111

In this Part:

course of study means the following:

(a) in relation to a secondary exchange student—a full-time course of study under a secondary school student exchange program administered by a State or Territory education authority;

(b) in relation to a Foreign Affairs student—either:

(i) a full-time course of study or training under a scholarship scheme approved by the Foreign Minister; or

(ii) a full-time course of study or training under a training program approved by the Foreign Minister;

(c) in relation to a Defence student—either:

(i) a full-time course of study or training under a scholarship scheme approved by the Defence Minister; or

(ii) a full-time course of study or training under a training program approved by the Defence Minister;

(d) in any other case—a full-time registered course.

higher education course means a course of study leading to the award of any of the following:

(a) a diploma (higher education);

(b) an advanced diploma (higher education);

(c) an associate degree;

(d) a bachelor degree;

(e) a graduate certificate (higher education);

(f) a graduate diploma (higher education);

(g) a bachelor honours degree;

(h) a masters degree (course work);

(i) a masters degree (extended).

postgraduate research course means a course of study leading to the award of:

(a) a masters degree (research); or

(b) a doctoral degree.

school student means a student who is enrolled in, or intends to enrol in, a course of study at a primary or secondary school.

Note: For ***Defence student***, ***Foreign Affairs student***, ***registered course***, ***school-age dependant*** and ***secondary exchange student***, see regulation 1.03.

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500.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

500.211

One of the following applies:

(a) the applicant is enrolled in a course of study;

(b) if the application is made in Australia—the applicant is seeking to remain in Australia because the relevant educational institution requires the applicant to do so during the marking of the applicant's postgraduate thesis;

(c) if the applicant is a Foreign Affairs student—the applicant has the support of the Foreign Minister for the grant of the visa;

(d) if the applicant is a Defence student—the applicant has the support of the Defence Minister for the grant of the visa.

500.212

The applicant is a genuine applicant for entry and stay as a student:

(a) having regard to:

(i) the applicant's circumstances; and

(ii) the applicant's immigration history; and

(iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and

(b) because the applicant intends to comply with any conditions subject to which the visa is granted, having regard to:

(i) the applicant's record of compliance with any condition of a visa previously held by the applicant (if any); and

(ii) the applicant's stated intention to comply with any conditions to which the visa may be subject; and

(c) because of any other relevant matter.

500.213

(1) If required to do so by the Minister, in writing or by use of a computer program available online, at any time, the applicant gives to the Minister evidence that the applicant has a level of English language proficiency that meets the requirements specified in an instrument under paragraph (3)(a).

Note: For arrangements for the use of a computer program, see section 495A of the Act.

(2) Subclause (1) does not apply to an applicant within a class of applicants specified in an instrument under paragraph (3)(b).

(3) The Minister may, by legislative instrument, specify:

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(a) requirements for the purposes of subclause (1); or
(b) a class of applicants to which subclause (1) does not apply.

500.214

(1) The applicant will have genuine access to funds of a kind mentioned in subclause (2) and, if subclause (3) applies, subclause (3).

(2) While the applicant holds the visa, sufficient funds will be available to meet:
(a) the costs and expenses of the applicant during the applicant's intended stay in Australia; and
(b) the costs and expenses of each member of the applicant's family unit (if any) who will be in Australia.

(3) If required to do so by the Minister, in writing or by use of a computer program available online, at any time, the applicant gives to the Minister evidence of financial capacity that satisfies the requirements specified in an instrument under subclause (4).

Note: For arrangements for the use of a computer program, see section 495A of the Act.

(4) The Minister may, by legislative instrument, specify requirements for the purposes of subclause (3).

500.215

The applicant gives to the Minister evidence of adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

500.216

If the applicant is a school student (other than a school student participating in a secondary school student exchange program), the applicant is:
(a) at least 6 years old at the time of application; and
(b) if proposing to undertake year 9 studies—less than 17 years old when commencing year 9; and
(c) if proposing to undertake year 10 studies—less than 18 years old when commencing year 10; and
(d) if proposing to undertake year 11 studies—less than 19 years old when commencing year 11; and
(e) if proposing to undertake year 12 studies—less than 20 years old when commencing year 12.

500.217

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, public interest criteria 4012A, 4017 and 4018 are satisfied in relation to the applicant.

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(3) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(4) The applicant (other than a Foreign Affairs student or a Defence Student) satisfies public interest criterion 4005.

(5) The applicant, being a Foreign Affairs student or a Defence Student, satisfies public interest criterion 4007.

(6) If the applicant's course of study or intended course of study is a postgraduate research course, the applicant satisfies public interest criterion 4003B.

500.218

The applicant satisfies special return criteria 5001, 5002 and 5010.

500.3—Secondary criteria

Note: Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

500.311

The applicant is a member of the family unit of a person (the ***primary person***) who holds a student visa, having satisfied the primary criteria for that visa, and either:

(a) the applicant became a member of the family unit of the primary person before the grant of the student visa to the primary person, and was included in:
  (i) the primary person's application under subregulation 2.07AF(3); or
  (ii) information provided in relation to the primary person's application under subregulation 2.07AF(4); or

(b) the applicant became a member of the family unit of the primary person:
  (i) after the grant of the student visa to the primary person; and
  (ii) before the application was made.

500.312

The applicant is a genuine applicant for entry and stay as a member of the family unit of a person who holds a student visa, having satisfied the primary criteria for that visa:

(a) having regard to:
  (i) the applicant's circumstances; and
  (ii) the applicant's immigration history; and
  (iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and

(b) because the applicant intends to comply with any conditions subject to which the visa is granted, having regard to:

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(i) the applicant's record of compliance with any condition of a visa previously held by the applicant (if any); and

(ii) the applicant's stated intention to comply with any conditions to which the visa may be subject; and

(c) because of any other relevant matter.

500.313

(1) The applicant will have genuine access to funds of a kind mentioned in subclause (2) and, if subclause (3) applies, subclause (3).

(2) While the applicant holds the visa, sufficient funds will be available to meet:

(a) the costs and expenses of the applicant during the applicant's intended stay in Australia; and

(b) the costs and expenses of each member of the applicant's family unit (if any) who will be in Australia.

(3) If required to do so by the Minister, in writing or by use of a computer program available online, at any time, the applicant gives to the Minister evidence of financial capacity that satisfies the requirements specified in an instrument under subclause (4).

Note: For arrangements for the use of a computer program, see section 495A of the Act.

(4) The Minister may, by legislative instrument, specify requirements for the purposes of subclause (3).

500.314

The applicant gives to the Minister evidence of adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

500.315

If:

(a) the applicant is a school-age dependant of the primary person mentioned in clause 500.311; and

(b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

500.316

(1) If the applicant is a member of the family unit of a Foreign Affairs student, the applicant has the support of the Foreign Minister for the grant of the visa.

(2) If the applicant is a member of the family unit of a Defence student, the applicant has the support of the Defence Minister for the grant of the visa.

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500.317

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

(3) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.

(4) The applicant (other than a member of the family unit of a Foreign Affairs student or a Defence Student) satisfies public interest criterion 4005.

(5) The applicant, being a member of the family unit of a Foreign Affairs student or Defence Student, satisfies public interest criterion 4007.

(6) If:

(a) the applicant is a member of the family unit of a person who holds a Subclass 500 (Student) visa, having satisfied the primary criteria for that visa; and

(b) the person's course of study or intended course of study is a postgraduate research course;

the applicant satisfies public interest criterion 4003B.

500.318

The applicant satisfies special return criteria 5001, 5002 and 5010.

500.4—Circumstances applicable to grant

500.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

500.5—When visa is in effect

500.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

500.6—Conditions

500.611

(1) If the applicant satisfies the primary criteria, the following conditions must be imposed:

(a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533;

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(aa) in all cases, condition 8208;
(b) if the applicant is a citizen of Iran and intends to undertake a higher education course or a postgraduate research course, condition 8203;
(c) if the applicant is a citizen of Iran and intends to undertake a course of study other than a higher education course or a postgraduate research course, condition 8204;
(d) if the applicant is a Foreign Affairs student or Defence student, condition 8535.

(2) If the applicant satisfies the primary criteria, the following conditions may be imposed:
(a) if the applicant is provided with financial assistance by the Commonwealth or the government of a foreign country, condition 8535;
(b) either or both of conditions 8303 and 8534.

500.612

(1) If the applicant satisfies the secondary criteria, the following conditions must be imposed:
(a) in all cases, conditions 8104, 8208, 8501 and 8516;
(b) if the applicant has not turned 18, condition 8518;
(c) if the applicant has turned 18, condition 8201;
(d) if the applicant is a citizen of Iran, condition 8204.

(2) If the applicant satisfies the secondary criteria, conditions 8303 and 8534 may be imposed.

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Subclass 590—Student Guardian

590.1—Interpretation

590.111

In this Part:

nominating student, for an applicant, means a person who:

(a) nominates the applicant on form 157N; and

(b) at the time of decision for the applicant, holds a student visa that was granted on the basis that the person met the primary criteria for the grant of the student visa.

590.2—Primary criteria

Note: An applicant must satisfy all primary criteria. All criteria must be satisfied at the time a decision is made on the application.

590.211

(1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirements of this subclause if:

(a) the nominating student has not turned 18; and

(b) the applicant is able to:

(i) provide appropriate accommodation and support for the nominating student; and

(ii) provide for the general welfare of the nominating student; and

(c) the applicant is either:

(i) a parent of the nominating student or a person who has custody of the nominating student; or

(ii) a person who is a relative of the nominating student and who has turned 21; and

(d) if subparagraph (c)(ii) applies—the nomination of the applicant is supported in writing by:

(i) a parent of the nominating student; or

(ii) a person who has custody of the nominating student.

(3) The applicant meets the requirements of this subclause if:

(a) the nominating student has turned 18; and

(b) there are exceptional reasons why the nominating student needs the applicant to reside with the nominating student in Australia; and

(c) the applicant is able to:

(i) provide appropriate accommodation and support for the nominating student; and

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(ii) provide for the general welfare of the nominating student; and

(d) the applicant is a person who:

(i) is a relative of the nominating student; and

(ii) has turned 21.

(4) An applicant meets the requirements of this subclause if:

(a) the grant of the visa to the applicant will significantly benefit the relationship between the government of Australia and the government of a foreign country; and

(b) the applicant has turned 21; and

(c) if the nominating student has not turned 18—the nomination of the applicant is supported in writing by:

(i) a parent of the nominating student; or

(ii) a person who has custody of the nominating student.

590.212

(1) The applicant has a genuine intention to reside in Australia with the nominating student.

(2) The nominating student has a genuine intention to reside in Australia with the applicant.

(3) Unless the applicant meets the requirements of subclause 590.211(4), the nominating student does not intend to reside in Australia with:

(a) a holder of a Subclass 580 or 590 visa other than the applicant; or

(b) a parent of the nominating student, or a person who has custody of the nominating student, other than the applicant.

Note: If the applicant meets the requirements of subclause 590.211(4), the nominating student may intend to reside with one or more holders of a Subclass 580 or 590 visa in addition to the applicant.

590.213

If any member of the family unit of the applicant has not turned 6:

(a) the applicant has established compelling and compassionate reasons for the grant of the visa; or

(b) the applicant satisfies the requirements of subclause 590.211(4).

590.214

The applicant has made appropriate arrangements, for the period of the applicant's proposed stay in Australia, for the accommodation, support and general welfare of each member of the applicant's family unit:

(a) who has not turned 18; and

(b) who does not hold a student visa.

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Clause 590.215

590.215

The applicant is a genuine applicant for entry and stay as a student guardian because:

(a) the applicant intends genuinely to stay in Australia temporarily, having regard to:
  (i) the applicant's circumstances; and
  (ii) the applicant's immigration history; and
  (iii) any other relevant matter; and
(b) the applicant intends to comply with any conditions to which the visa may be subject, having regard to:
  (i) the applicant's record of compliance with any condition of a visa previously held by the applicant (if any); and
  (ii) the applicant's stated intention to comply with any conditions to which the visa may be subject; and
(c) of any other relevant matter.

590.216

(1) The applicant will have genuine access to:
  (a) funds of a kind mentioned in subclause (2); and
  (b) funds that evidence financial capacity, as mentioned in subclause (3).

(2) While the applicant holds the visa, sufficient funds will be available to meet:
  (a) the costs and expenses of the applicant during the applicant's intended stay in Australia; and
  (b) the costs and expenses of each member of the applicant's family unit (if any) who will be in Australia; and
  (c) unless the applicant meets the requirements of subclause 590.211(4), the costs and expenses of each nominating student.

(3) The applicant gives to the Minister evidence of financial capacity that satisfies the requirements specified in an instrument under subclause (4).

(4) The Minister may, by legislative instrument, specify requirements for the purposes of subclause (3).

590.217

The applicant gives to the Minister evidence of adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

590.218

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4019, 4020 and 4021.

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590.219

The applicant satisfies special return criteria 5001, 5002 and 5010.

590.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

590.311

The applicant is a member of the family unit of a person who satisfies the primary criteria in Division 590.2.

590.312

The applicant must not have turned 6.

590.313

The applicant gives to the Minister evidence of adequate arrangements for health insurance during the period of the applicant's intended stay in Australia.

590.314

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014, 4017, 4018, 4020 and 4021.

590.315

The applicant satisfies special return criteria 5001 and 5002.

590.4—Circumstances applicable to grant

590.411

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

590.5—When visa is in effect

590.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

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Clause 590.611

590.6—Conditions

590.611

(1) In the case of a visa granted to an applicant who meets the requirements of subclause 590.211(2) or (3)—conditions 8101, 8201, 8501, 8516, 8534, 8537 and 8538 must be imposed.

(2) In the case of a visa granted to an applicant who meets the requirements of subclause 590.211(4)—conditions 8106, 8201, 8501, 8516, 8534, 8537 and 8538 must be imposed.

590.612

In the case of a visa granted to an applicant who satisfies the secondary criteria for the grant of the visa—conditions 8101, 8501, 8502 and 8516 must be imposed.

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Subclass 600—Visitor

600.1—Interpretation

Note 1: For ***business visitor activity***: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

600.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 600 visa include criteria set out in streams.

If an applicant applies for a Subclass 600 visa in the Tourist stream, the criteria in Subdivisions 600.21 and 600.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 600 visa in the Sponsored Family stream, the criteria in Subdivisions 600.21 and 600.23 are the primary criteria.

If an applicant applies for a Subclass 600 visa in the Business Visitor stream, the criteria in Subdivisions 600.21 and 600.24 are the primary criteria.

If an applicant applies for a Subclass 600 visa in the Approved Destination Status stream, the criteria in Subdivisions 600.21 and 600.25 are the primary criteria.

If an applicant applies for a Subclass 600 visa in the Frequent Traveller stream, the criteria in Subdivisions 600.21 and 600.26 are the primary criteria.

The primary criteria must be satisfied by all applicants.

All criteria must be satisfied at the time a decision is made on the application.

600.21—Common criteria

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 600 visa.

600.211

The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:

(a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and

(b) whether the applicant intends to comply with the conditions to which the Subclass 600 visa would be subject; and

(c) any other relevant matter.

600.212

The applicant has:

(a) adequate means to support himself or herself; or

(b) access to adequate means to support himself or herself;

during the period of the applicant's intended stay in Australia.

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Clause 600.213

600.213

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4020 and 4021.

(2) If the applicant has not turned 18, the applicant also satisfies public interest criteria 4012, 4017 and 4018.

600.214

The applicant satisfies special return criteria 5001, 5002 and 5010.

600.215

(1) If subclause (2) applies—exceptional circumstances exist for the grant of the visa.

(2) This subclause applies if the grant of the visa would result in the applicant being authorised to stay in Australia as the holder of one or more of the following visas for a total period of more than 12 consecutive months:
  (a) one or more visitor visas;
  (b) a Subclass 417 (Working Holiday) visa;
  (c) a Subclass 462 (Work and Holiday) visa;
  (d) a bridging visa.

600.22—Criteria for Tourist stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Tourist stream.

600.221

The applicant intends to visit Australia, or remain in Australia:
  (a) to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
  (b) for any other purpose that is not related to business or medical treatment.

600.222

If the applicant:
  (a) is in Australia; and
  (b) holds a student visa, or has been the holder of a student visa since last entering Australia;

the visa is not sought for the purpose of commencing, continuing or completing a registered course in which the applicant is enrolled.

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600.223

(1) If the applicant was in Australia at the time of application, and held a substantive temporary visa, the visa was not a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.

(2) If the applicant was in Australia at the time of application, and did not hold a substantive visa:
  (a) the last substantive visa the applicant held was not a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; and
  (b) the applicant satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005.

600.224

(1) Subclauses (2) to (4) apply if:
  (a) an applicant intends to visit Australia, or remain in Australia to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; and
  (b) the Minister has required the applicant, and each other applicant who is a member of the applicant's family unit, or in relation to whom the applicant is a member of the family unit, to be sponsored by a settled Australian citizen, or a settled Australian permanent resident, who is at least 18 and:
    (i) a relative of the applicant; or
    (ii) a relative of another applicant who is a member of the family unit of the applicant; or
    (iii) a relative of another applicant in relation to whom the applicant is a member of the family unit.

(2) The applicant is sponsored as required by the Minister.

(3) The sponsorship has been approved by the Minister and is still in force.

(4) If the applicant is not a relative of the sponsor, a Subclass 600 visa in the Tourist stream has been granted to another person who is:
  (a) a relative of the sponsor; and
  (b) sponsored by the sponsor in relation to the applicant's visit.

600.225

(1) Subclause (2) applies if:
  (a) the Minister has required the applicant to be sponsored as described in paragraph 600.224(1)(b); and
  (b) the applicant is sponsored as required by the Minister; and
  (c) the sponsorship has been approved by the Minister and is still in force; and
  (d) an officer authorised under section 269 of the Act (which deals with security for compliance with the Act) has asked for the lodgement of a security.

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(2) The security has been lodged.

600.23—Criteria for Sponsored Family stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Sponsored Family stream.

600.231

The applicant intends to visit Australia:

(a) to visit an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or

(b) for any other purpose that is not related to business or medical treatment.

600.232

(1) One of subclauses (2) to (4) applies.

(2) The applicant is sponsored by a settled Australian citizen, or a settled Australian permanent resident, who is at least 18 and:

(a) a relative of the applicant; or

(b) a relative of another applicant who is a member of the family unit of the applicant; or

(c) a relative of another applicant in relation to whom the applicant is a member of the family unit.

(3) The applicant is sponsored by a settled Australian citizen, or a settled Australian permanent resident, who:

(a) is a member of the Commonwealth Parliament or a State Parliament; or

(b) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or

(c) holds the office of mayor.

(4) The applicant is sponsored by a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality.

600.233

If subclause 600.232(2) applies, and if the applicant is not a relative of the sponsor, a Subclass 600 visa in the Sponsored Family stream has been granted to another person who is:

(a) a relative of the sponsor; and

(b) sponsored by the sponsor in relation to the applicant's visit.

600.234

The sponsorship described in subclause 600.232(2), (3) or (4) has been approved by the Minister and is still in force.

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600.235

If an officer authorised under section 269 of the Act (which deals with security for compliance with the Act) has asked for the lodgement of a security, the security has been lodged.

600.24—Criteria for Business Visitor stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Business Visitor stream.

600.241

The applicant intends to visit Australia to engage in a business visitor activity.

600.242

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

600.25—Criteria for Approved Destination Status stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Approved Destination Status stream.

600.251

(1) The applicant is a citizen of PRC.

(2) The applicant is resident in an area of PRC specified by the Minister in an instrument in writing for this subclause.

600.252

The applicant intends to travel to Australia as a member of a tour organised by a travel agent specified by the Minister in an instrument in writing for item 3 of the table in subitem 1236(6) of Schedule 1.

600.253

The applicant intends to travel to Australia for the purpose of sightseeing and related activities.

600.254

A statement of the travel and touring arrangements has been provided to the Minister.

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Clause 600.261

600.26—Criteria for Frequent Traveller stream

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 600 visa in the Frequent Traveller stream.

600.261

The applicant intends to visit Australia:

(a) as a tourist; or

(b) to engage in a business visitor activity.

600.262

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

600.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

600.4—Circumstances applicable to grant

600.411

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

600.412

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

600.413

An applicant for a Subclass 600 visa in the Approved Destination Status stream must be in PRC at the time of grant.

600.5—When visa is in effect

600.511

(1) If the visa:

(a) is granted to an applicant in Australia; and

(b) does not specify that it permits the holder to travel to and enter Australia;

temporary visa permitting the holder to remain in Australia for a period, or until a date, specified by the Minister.

(2) If the visa:

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(a) is granted to an applicant in Australia; and

(b) specifies that it permits the holder to travel to and enter Australia;

temporary visa permitting the holder to travel to, and enter, Australia on one or more occasions, as specified by the Minister, until a date specified by the Minister and to remain in Australia, after each entry, for a period, or until a date, specified by the Minister.

600.512

(1) If the visa is granted to an applicant outside Australia, temporary visa permitting the holder to travel to, and enter, Australia on one or more occasions, as specified by the Minister, until a date specified by the Minister and to remain in Australia, after each entry, for a period, or until a date, specified by the Minister.

(2) Despite subclause (1), if the applicant satisfied the primary criteria for the grant of a Subclass 600 visa in the Frequent Traveller stream, temporary visa permitting the holder:

(a) to travel to and enter Australia on multiple occasions until a date specified by the Minister (which must not be more than 10 years after the date of grant of the visa); and

(b) to remain in Australia, after each entry, for 3 months.

600.513

Despite clauses 600.511 and 600.512, if:

(a) the visa is granted to an applicant on the basis of a deemed application under regulation 2.07AA; and

(b) the applicant already holds a substantive visa that is in effect at the time of grant;

the Subclass 600 visa comes into effect when the other substantive visa ceases to be in effect.

Note: If the visa period of the Subclass 600 visa ends before the other substantive visa ceases, the Subclass 600 visa never comes into effect.

600.6—Conditions

600.611

(1) Subclauses (2) to (4) apply if the visa is a Subclass 600 visa in the Tourist stream.

(2) If the sponsorship described in clause 600.224 has been approved by the Minister, conditions 8101, 8201, 8503, and 8531 must be imposed.

(3) If the applicant was not sponsored in accordance with clause 600.224, and subclause (4) does not apply:

(a) conditions 8101 and 8201 must be imposed; and

(b) conditions 8501, 8503 and 8558 may be imposed.

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Clause 600.612

(4) If:
(a) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia; and
(b) the applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia; and
(c) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia; and
(d) the applicant has compelling personal reasons to work in Australia;

condition 8201 must be imposed and condition 8503 may be imposed.

600.612

If the visa is a Subclass 600 visa in the Sponsored Family stream, conditions 8101, 8201, 8503, and 8531 must be imposed.

600.613

If the visa is a Subclass 600 visa in the Business Visitor stream:
(a) conditions 8115 and 8201 must be imposed; and
(b) condition 8503 may be imposed.

600.614

If the visa is a Subclass 600 visa in the Approved Destination Status stream, conditions 8101, 8207, 8503 and 8530 must be imposed.

600.615

If the visa is a Subclass 600 visa in the Frequent Traveller stream, conditions 8115, 8201, 8503, 8516, 8527, 8531, 8572, 8573 and 8609 must be imposed.

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Subclass 601—Electronic Travel Authority

601.1—Interpretation

Note 1: For ***business visitor activity*** and ***ETA-eligible passport***: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

601.2—Primary criteria

Note: The primary criteria for the grant of a Subclass 601 visa must be satisfied by all applicants.

All criteria must be satisfied at the time a decision is made on the application.

601.21—Criteria

601.211

The applicant holds an ETA-eligible passport.

601.212

The applicant genuinely intends to visit Australia temporarily:

(a) as a tourist; or

(b) to engage in a business visitor activity.

601.213

The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013, 4014 and 4020.

601.214

The applicant satisfies special return criteria 5001 and 5002.

601.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

601.4—Circumstances applicable to grant

601.411

If the applicant is in immigration clearance at the time of application, the applicant must be in immigration clearance at time of grant.

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601.412

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at time of grant.

601.5—When visa is in effect

601.511

Temporary visa permitting the holder:

(a) to travel to, and enter, Australia on multiple occasions within the shorter of:
  (i) 12 months from the date of the grant of the visa; and
  (ii) the life of the holder's passport; and
(b) to remain in Australia, after each entry, for 3 months.

601.512

Despite clause 601.511, if the applicant already holds a substantive visa (other than a Special Purpose visa or a Subclass 988 (Maritime Crew) visa) that is in effect at the time of grant, the Subclass 601 visa comes into effect when the other substantive visa ceases to be in effect.

Note: If the visa period of the Subclass 601 visa ends before the other substantive visa ceases, the Subclass 601 visa never comes into effect.

601.513

If the applicant already holds a substantive visa that is in effect at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

601.6—Conditions

601.611

Conditions 8115, 8201, 8527 and 8528 must be imposed.

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Subclass 602—Medical Treatment

602.1—Interpretation

Note: There are no interpretation provisions specific to this Part.

602.2—Primary criteria

Note: All applicants must satisfy the primary criteria unless the applicant is a member of the family unit of a person who holds:

(a) a Subclass 602 visa on the basis of satisfying subclause 602.212(6) (unfit to depart); or

(b) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis of satisfying subclause 685.221(4) (unfit to depart).

Those applicants must satisfy the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

602.211

The applicant seeks to visit Australia, or remain in Australia temporarily, for the purposes of medical treatment or for related purposes.

602.212

(1) The requirements in one of subclauses (2) to (8) are met.

Medical treatment

(2) All of the following requirements are met:

(a) the applicant seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia;

(b) arrangements have been concluded to carry out the treatment;

(c) if the treatment is an organ transplant:

(i) the donor of the relevant organ is accompanying the applicant to Australia; or

(ii) all requisite arrangements to effect the donation of the organ have been concluded in Australia;

(d) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

(e) arrangements have been concluded for the payment of all costs related to the treatment and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant;

(f) either:

(i) the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or a public authority in Australia; or

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(ii) evidence is produced that the relevant government authority has approved the payment of those costs.

Organ donor

(3) All of the following requirements are met:
(a) the applicant seeks to donate an organ for transplant in Australia;
(b) if the organ recipient is also an applicant, the requirements described in subclause (2) are met in relation to the organ recipient;
(c) the applicant satisfies public interest criterion 4005;
(d) arrangements have been concluded for the payment of all costs related to the organ transplant and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant;
(e) either:
(i) the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or a public authority in Australia; or
(ii) evidence is produced that the relevant government authority has approved the payment of those costs.

Support person

(4) All of the following requirements are met:
(a) the applicant seeks to give emotional and other support to an applicant in relation to whom:
(i) the requirements described in subclause (2) or (3) are met; or
(ii) the requirements described in subclause 675.212(2) or (3) are met; or
(iii) the requirements described in subclause 685.212(2) or (3) are met;
(b) the person to whom the applicant is to provide support holds:
(i) a Subclass 602 visa on the basis that the requirements described in subclause (2) or (3) have been met; or
(ii) a Subclass 675 (Medical Treatment (Short Stay)) visa on the basis that the requirements described in subclause 675.212(2) or (3) have been met; or
(iii) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis that the requirements described in subclause 685.212(2) or (3) have been met;
(c) the applicant satisfies public interest criterion 4005.

Western Province of Papua New Guinea

(5) All of the following requirements are met:
(a) the applicant is a citizen of Papua New Guinea;
(b) the applicant resides in the Western Province of Papua New Guinea;

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(c) the Department of the government of Queensland that is responsible for health has approved the medical evacuation of the applicant to, or treatment of the applicant in, a hospital in Queensland.

Unfit to depart

(6) All of the following requirements are met:
(a) the applicant is in Australia;
(b) the applicant has turned 50;
(c) the applicant has applied for a permanent visa while in Australia;
(d) the applicant appears to have met all the criteria for the grant of that visa, other than public interest criteria related to health;
(e) the applicant has been refused the visa;
(f) the applicant is medically unfit to depart Australia due to a permanent or deteriorating disease or health condition, as evidenced by a written statement to that effect from a Medical Officer of the Commonwealth.

Financial hardship

(7) All of the following requirements are met:
(a) one of the following applies:
(i) the requirements described in paragraphs (2)(a) to (c) are met in relation to the applicant;
(ii) the requirements described in paragraphs (3)(a) and (b) are met in relation to the applicant;
(iii) the requirements described in paragraphs (4)(a) and (b) are met in relation to the applicant;
(iv) the requirements described in subclause (5) are met in relation to the applicant;
(v) the requirements described in paragraphs (6)(a) to (e) are met in relation to the applicant;
(b) the applicant is in Australia;
(c) the applicant holds:
(i) a Subclass 602 visa; or
(ii) a Subclass 675 (Medical Treatment (Short Stay)) visa; or
(iii) a Subclass 685 (Medical Treatment (Long Stay)) visa;
(d) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;
(e) the applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia;
(f) the applicant, or a member of the applicant's immediate family, cannot leave Australia for reasons beyond his or her control;
(g) the applicant has compelling personal reasons to work in Australia;
(h) the applicant satisfies public interest criterion 4005.

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Clause 602.213

Compelling personal reasons

(8) All of the following requirements are met:
  (a) one of the following applies:
    (i) the requirements described in paragraphs (2)(a) to (c) are met in relation to the applicant;
    (ii) the requirements described in paragraphs (3)(a) and (b) are met in relation to the applicant;
    (iii) the requirements described in paragraphs (4)(a) and (b) are met in relation to the applicant;
    (iv) the requirements described in subclause (5) are met in relation to the applicant;
    (v) the requirements described in paragraphs (6)(a) to (e) are met in relation to the applicant;
  (b) the applicant is in Australia;
  (c) the applicant has compelling personal reasons for the grant of the visa;
  (d) the applicant satisfies public interest criterion 4005, other than paragraph 4005(1)(c).

602.213

(1) Subclause (2) applies if:
  (a) the applicant was in Australia at the time of application; and
  (b) the applicant held a substantive temporary visa at that time; and
  (c) the requirements described in subclause 602.212(6) are not met in relation to the applicant.

(2) The substantive temporary visa held by the applicant was not a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.

(3) Subclause (4) applies if:
  (a) the applicant was in Australia at the time of application; and
  (b) the applicant did not hold a substantive temporary visa at that time; and
  (c) the requirements described in subclause 602.212(6) are not met in relation to the applicant.

(4) The last substantive temporary visa held by the applicant was not a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream.

602.214

(1) No Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.

(2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

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602.215

(1) The applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted, having regard to:
  (a) whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and
  (b) whether the applicant intends to comply with the conditions to which the Subclass 602 visa would be subject; and
  (c) any other relevant matter.

(2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

602.216

(1) The applicant has:
  (a) adequate means to support himself or herself; or
  (b) access to adequate means to support himself or herself;
during the period of the applicant's intended stay in Australia.

(2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6) are met in relation to the applicant.

602.217

(1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.

(2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6), (7) or (8) are met in relation to the applicant.

602.218

The applicant satisfies public interest criteria 4020 and 4021.

602.219

If the applicant has not turned 18, the applicant also satisfies public interest criteria 4012, 4017 and 4018.

602.219A

The applicant satisfies special return criteria 5001, 5002 and 5010.

602.219B

(1) If the application is made in Australia:

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(a) the period of stay in Australia to which the application relates is not sought for the purpose of commencing, continuing or completing any studies or training; and

(b) if the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of one or more visitor visas, compelling personal reasons or exceptional circumstances exist for the grant of the visa.

(2) However, subclause (1) does not apply if the requirements described in subclause 602.212(6), (7) or (8) are met in relation to the applicant.

602.3—Secondary criteria

Note: These criteria are for certain applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.

602.311

The applicant is a member of the family unit of a person who holds:

(a) a Subclass 602 visa on the basis of satisfying the requirements in subclause 602.212(6); or

(b) a Subclass 685 (Medical Treatment (Long Stay)) visa on the basis of satisfying the requirements in subclause 685.221(4).

602.312

(1) The applicant satisfies public interest criteria 4020 and 4021.

(2) If the applicant has not turned 18, the applicant also satisfies public interest criteria 4012, 4017 and 4018.

602.313

The applicant satisfies special return criterion 5010.

602.314

(1) Subclauses (2) to (6) apply if the applicant holds:

(a) a Subclass 602 visa; or

(b) a Subclass 675 (Medical Treatment (Short Stay)) visa; or

(c) a Subclass 685 (Medical Treatment (Long Stay)) visa.

(2) The applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia.

(3) The applicant, or a member of the applicant's immediate family, is likely to become a charge on the Commonwealth, a State, a Territory or a public authority in Australia.

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(4) For reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia.

(5) The applicant has compelling personal reasons to work in Australia.

(6) The applicant satisfies public interest criterion 4005.

602.4—Circumstances applicable to grant

602.411

If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

602.412

If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

602.5—When visa is in effect

602.511

Temporary visa permitting the holder:

(a) to travel to, and enter, Australia on one or more occasions until a date specified by the Minister; and

(b) to remain in Australia for a period specified by the Minister.

602.6—Conditions

602.611

(1) If:

(a) the applicant holds a Subclass 602 visa on the basis of satisfying the primary criteria; and

(b) the requirements described in subclause 602.212(7) have been met in relation to the applicant;

condition 8201 must be imposed.

(2) If:

(a) the applicant holds a Subclass 602 visa on the basis of satisfying the secondary criteria; and

(b) the requirements described in clause 602.314 have been met in relation to the applicant;

condition 8201 must be imposed.

(3) In any other case, conditions 8101 and 8201 must be imposed.

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Clause 602.612

602.612

Condition 8503 may be imposed.

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Subclass 651—eVisitor

651.1—Interpretation

Note 1: For ***business visitor activity*** and ***eVisitor eligible passport***: see regulation 1.03.

Note 2: There are no interpretation provisions specific to this Part.

651.2—Primary Criteria

Note: The primary criteria for the grant of a Subclass 651 visa must be satisfied by all applicants.

All criteria must be satisfied at the time a decision is made on the application.

651.21—Criteria

651.211

The applicant holds an eVisitor eligible passport.

651.212

The applicant genuinely intends to visit Australia temporarily:

(a) as a tourist; or

(b) to engage in a business visitor activity.

651.213

The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013, 4014 and 4020.

651.214

The applicant satisfies special return criteria 5001 and 5002.

651.3—Secondary criteria

Note: There are no secondary criteria for this Part. The primary criteria must be satisfied by all applicants.

651.4—Circumstances applicable to grant

651.411

The applicant must be outside Australia at the time of the grant.

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Clause 651.511

651.5—When visa is in effect

651.511

Temporary visa permitting the holder:

(a) to travel to and enter Australia on multiple occasions within 12 months from the date of the grant of the visa; and

(b) to remain in Australia, after each entry, for 3 months.

651.6—Conditions

651.611

Conditions 8115, 8201, 8527 and 8528 must be imposed.

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Subclass 771—Transit

771.1—Interpretation

Note: ***non-military ship*** and ***member of the crew*** are defined in regulation 1.03. No interpretation provisions specific to this Part.

771.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

771.21—Criteria to be satisfied at time of application

771.211

The applicant intends to remain in Australia no longer than 72 hours.

771.212

The applicant establishes that the applicant's principal purpose in entering Australia is:

(a) to pass through Australia in transit to another country; or

(b) to pass through Australia for the purpose of signing on to a non-military ship (other than a ship that is being imported into Australia) as a member of the crew.

771.213

The applicant produces tickets or documentation, or both, establishing that the applicant has concluded arrangements for travel to a destination outside Australia.

771.22—Criteria to be satisfied at time of decision

771.221

The applicant continues to satisfy the criteria in clauses 771.211 to 771.213.

771.222

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4020 and 4021.

771.223

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

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Clause 771.411

771.3—Secondary criteria: Nil.

Note: All applicants must meet the primary criteria.

771.4—Circumstances applicable to grant

771.411

The applicant must be outside Australia when the visa is granted.

771.5—When visa is in effect

771.511

Temporary visa permitting the holder to travel to and enter Australia on 1 or more occasions and to remain in Australia no longer than 72 hours on each occasion.

771.6—Conditions

771.611

The holder must enter on or before the date specified by the Minister for the purpose.

771.612

Conditions 8101 and 8201.

771.613

Any 1 or more of conditions 8501, 8514 and 8516 may be imposed.

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Subclass 773—Border

773.1—Interpretation

Note: ***eligible New Zealand citizen*** is defined in regulation 1.03. No interpretation provisions specific to this Part.

773.2—Primary criteria

Note: All applicants must meet the primary criteria.

773.21—Criteria to be satisfied at time of application

773.211

If the applicant has entered Australia and seeks immigration clearance, the applicant satisfies the criteria in clauses 773.212 to 773.216.

773.212

The applicant does not seek to remain in Australia as a refugee or on humanitarian grounds.

773.213

(1) The applicant is:
  (a) the spouse or de facto partner of an Australian citizen, Australian permanent resident or an eligible New Zealand citizen; or
  (b) a person who is apparently eligible for a Return (Residence) visa; or
  (c) a person who has entered Australia with a visa that has been cancelled on presentation in immigration clearance because the person has breached a condition that the person is not to arrive in Australia before the arrival of another person specified in the visa; or
  (d) a person who:
    (i) is a dependent child of:
      (A) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
      (B) the holder of a visa of a class set out in subclause (2); or
      (C) the holder of a visa of a class specified in subclause (3); or
      (D) the holder of a visa of a subclass specified in subclause (4); and
    (ii) arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa; or
  (e) a person who:
    (i) immediately before last departing Australia, held a visa of:
      (A) a class specified in subclause (3); or
      (B) a subclass specified in subclause (4); and

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(ii) departed in circumstances in which it was not reasonably practicable to obtain a visa before departing; and

(iii) would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia; or

(f) a person who:

(i) immediately before last departing Australia, held a Student (Temporary) visa; and

(ii) departed in circumstances in which it was not reasonably practicable for the person to obtain a visa before departing; or

(g) a person who:

(i) has entered Australia without a visa that is in effect; and

(ii) seeks to remain in Australia on a temporary basis; and

(iii) appears to the Minister, from information in the application, to be a person:

(A) who is eligible for the grant of a Visitor (Class TV) visa; or

(B) who is, apart from the requirements of subitem 1236(5) of Schedule 1, eligible for the grant of a Subclass 600 (Visitor) visa; or

(C) who is, apart from the requirements of subitem 1224(3) of Schedule 1 and clause 771.411 of this Schedule, eligible for the grant of a Transit (Temporary) (Class TX) visa; or

(D) who is, apart from the requirements of item 1231 of Schedule 1 and clause 400.411 of this Schedule, eligible for the grant of a Subclass 400 (Temporary Work (Short Stay Specialist)) visa.

(2) The classes of visa referred to in sub-subparagraph (1)(d)(i)(B) are the following:

(a) Spouse (Migrant) (Class BC);

(ab) Partner (Migrant) (Class BC);

(b) Child (Migrant) (Class AH);

(c) Adoption (Migrant) (Class AA);

(d) Parent (Migrant) (Class AX);

(e) Preferential Relative (Migrant) (Class AY);

(f) Skilled—Australian Linked (Migrant) (Class AJ);

(g) Labour Agreement (Migrant) (Class AU);

(h) Employer Nomination (Migrant) (Class AN);

(ha) Employer Nomination (Permanent) (Class EN);

(hb) Regional Employer Nomination (Permanent) (Class RN);

(j) Distinguished Talent (Migrant) (Class AL);

(k) Independent (Migrant) (Class AT);

(l) Business Skills (Migrant) (Class AD);

(la) Business Skills—Business Talent (Permanent) (Class EA);

(lb) Business Skills—Established Business (Residence) (Class BH);

(lc) Business Skills (Residence) (Class DF);

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(ld) Business Skills (Permanent) (Class EC);
(n) Special Eligibility (Migrant) (Class AR);
(q) General (Residence) (Class AS);
(s) Confirmatory (Residence) (Class AK);
(t) Special Eligibility (Residence) (Class AO);
(u) Refugee and Humanitarian (Migrant) (Class BA);
(v) Camp Clearance (Migrant) (Class AF);
(w) East Timorese in Portugal (Special Assistance) (Class AM);
(x) Citizens of the Former Yugoslavia (Special Assistance) (Class AI);
(y) Minorities of Former USSR (Special Assistance) (Class AV);
(z) Burmese in Burma (Special Assistance) (Class AB);
(za) Sudanese (Special Assistance) (Class BD);
(zb) Burmese in Thailand (Special Assistance) (Class AC);
(zc) Cambodian (Special Assistance) (Class AE);
(zd) Return (Residence) (Class BB);
(zf) protection visas (including Protection (Class AZ) visas, see subsection 35A(5) of the Act);
(zg) Territorial Asylum (Residence) (Class BE);
(zga) Designated Parent (Migrant) (Class BY);
(zgb) Designated Parent (Residence) (Class BZ);
(zh) Skilled – Independent (Migrant) (Class BN);
(zi) Skilled – Australian-sponsored (Migrant) (Class BQ);
(zj) Other Family (Migrant) (Class BO);
(zk) Aged Parent (Residence) (Class BP);
(zl) Partner (Residence) (Class BS);
(zm) Child (Residence) (Class BT);
(zn) Other Family (Residence) (Class BU);
(zo) Skilled—New Zealand Citizen (Residence) (Class DB);
(zp) Skilled—Independent Overseas Student (Residence) (Class DD);
(zq) Skilled—Australian-sponsored Overseas Student (Residence) (Class DE);
(zr) Contributory Parent (Migrant) (Class CA);
(zs) Contributory Aged Parent (Residence) (Class DG);
(zt) Skilled—Designated Area-sponsored (Residence) (Class CC);
(zu) Skilled (Residence) (Class VB);
(zv) Skilled (Migrant) (Class VE);
(zw) Skilled—Independent (Permanent) (Class SI);
(zx) Skilled—Nominated (Permanent) (Class SN);
(zy) National Innovation (Class BX).

(3) The classes of visa referred to in sub-subparagraphs (1)(d)(i)(C) and (1)(e)(i)(A) are the following:
(a) Business (Temporary) (Class TB);
(aa) Business Skills (Provisional) (Class UR);

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Clause 773.214

(ab) Business Skills (Provisional) (Class EB);
(c) Diplomatic (Temporary) (Class TF);
(f) Expatriate (Temporary) (Class TJ);
(g) Family Relationship (Temporary) (Class TL);
(ga) Graduate—Skilled (Temporary) (Class UQ);
(gb) Interdependency (Provisional) (Class UG);
(h) Interdependency (Temporary) (Class TM);
(i) Medical Practitioner (Temporary) (Class UE);
(ia) New Zealand Citizen Family Relationship (Temporary) (Class UP);
(j) Retirement (Temporary) (Class TQ);
(ja) Spouse (Provisional) (Class UF);
(jb) Partner (Provisional) (Class UF);
(k) Supported Dependant (Temporary) (Class TW);
(l) Working Holiday (Temporary) (Class TZ);
(m) Contributory Parent (Temporary) (Class UT);
(n) Contributory Aged Parent (Temporary) (Class UU);
(o) Skilled—Designated Area-sponsored (Provisional) (Class UZ);
(p) Skilled—Independent Regional (Provisional) (Class UX);
(q) Skilled (Provisional) (Class VC);
(r) Skilled (Provisional) (Class VF);
(s) Skilled—Regional Sponsored (Provisional) (Class SP);
(sa) Skilled Employer Sponsored Regional (Provisional) (Class PE);
(sb) Skilled Work Regional (Provisional) (Class PS);
(t) Temporary Work (Long Stay Activity) (Class GB);
(u) Training and Research (Class GC);
(ua) Temporary Work (International Relations) (Class GD);
(v) Temporary Work (Entertainment) (Class GE);
(w) Special Program (Temporary) (Class TE).

(4) The subclasses of visa referred to in sub-subparagraphs (1)(d)(i)(D) and (1)(e)(i)(B) are the following:
(a) Subclass 303 (Emergency (Temporary Visa Applicant));
(aa) Subclass 407 (Training);
(ab) Subclass 408 (Temporary Activity);
(b) Subclass 457 (Temporary Work (Skilled));
(ba) Subclass 482 (Skills in Demand).
(c) Subclass 482 (Temporary Skill Shortage).

773.214

In the case of an application by an applicant other than a person referred to in paragraph 773.213(1)(c), the Minister is satisfied that:
(a) there are compelling reasons for granting a Subclass 773 visa to the applicant; and

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(b) the presence of the applicant in Australia would not be contrary to Australia's interests; and
(c) the applicant has a good reason for not being the holder of a visa.

773.215

In the case of an application by an applicant referred to in paragraph 773.213(1)(c), the Minister is satisfied, on the basis of a written statement by the applicant, that:

(a) the applicant has reasonable grounds for having failed to comply with the condition; and
(b) there are compelling reasons for allowing the applicant to leave the place of immigration clearance with the permission of the clearance officer; and
(c) the specified person referred to in that paragraph will arrive in Australia within 30 days of the applicant being allowed to leave the place of immigration clearance with the permission of the clearance officer.

773.216

(1) Subject to subclause (2), if the applicant is an applicant referred to in paragraph 773.213(1)(e), (f) or (g), the application is not made within 5 years of the grant of a previous Subclass 773 visa that was granted to the applicant on the basis of the applicant being a person of that kind.

(2) Subclause (1) does not apply to an applicant:
(a) if the applicant is a passenger on a vessel that has entered Australia because of matters beyond the control of the person in charge of the vessel; or
(b) if:
(i) there are compelling reasons for the grant of the visa to the applicant; and
(ii) the presence of the applicant in Australia would not be contrary to the interests of Australia; and
(iii) the applicant has a good reason for not being the holder of a visa.

773.217

If the application is made in Australia after immigration clearance, the applicant is the holder of a Subclass 773 visa that was granted to the holder as a person referred to in paragraph 773.213(1)(d).

773.22—Criteria to be satisfied at time of decision

773.221

If the application is made in Australia and the applicant seeks immigration clearance, the applicant continues to satisfy the criteria in clauses 773.212 to 773.216.

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Clause 773.222

773.222

The applicant satisfies:

(a) public interest criteria 4001, 4002, 4003, 4004, 4005 and 4012; and

(b) if the applicant is not a person described in sub-subparagraph 773.213(1)(d)(i)(A) or (B)—public interest criteria 4013 and 4014.

773.223

If the application is made in Australia and the applicant seeks immigration clearance, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

773.224

If the application is made in Australia after immigration clearance:

(a) the Subclass 773 visa held by the applicant was granted subject to the satisfaction of a requirement or condition before the expiry of a period specified in the visa and that requirement has not been satisfied; and

(b) the applicant establishes that it was not possible to satisfy the requirement or condition before expiry of the period; and

(c) the Minister is satisfied that it would be unreasonable to require the person to leave Australia.

773.225

(1) If the applicant is a Foreign Affairs student or a Foreign Affairs recipient, the applicant has the support of the Foreign Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

(a) compelling circumstances that affect the interests of Australia; or

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

773.226

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

773.3—Secondary criteria: Nil.

Note: All applicants must satisfy the primary criteria.

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773.4—Circumstances applicable to grant

773.411

When visa is granted, the applicant must be:

(a) in Australia and in immigration clearance; or

(b) in Australia after immigration clearance.

773.5—When visa is in effect

773.511

Temporary visa:

(a) either:

(i) coming into effect on grant; or

(ii) providing that if:

(A) the applicant holds another substantive visa, other than:

(I) a Special Purpose visa; or

(II) a Subclass 988 (Maritime Crew) visa;

that is in effect at the date of grant; and

(B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;

this visa comes into effect when the other substantive visa ceases; and

(b) permitting the holder to remain in Australia for a period specified by the Minister, not exceeding 30 days from the date of grant.

Note: If, when the other substantive visa ceases, the period from the grant of this visa to the time the other substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

773.512

If the visa holder holds another substantive visa at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

773.6—Conditions

773.611

Conditions applicable to the visa for which the applicant is apparently eligible.

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Subclass 785—Temporary Protection

785.1—Interpretation

Note 1: For ***member of the same family unit***, see subsection 5(1) of the Act.

Note 2: There are no interpretation provisions specific to this Part.

785.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

785.21—Criteria to be satisfied at time of application

785.211

(1) Subclause (2) or (3) is satisfied.

(2) The applicant:
  (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
  (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The applicant claims to be a member of the same family unit as a person:
  (a) to whom subclause (2) applies; and
  (b) who is an applicant for a Subclass 785 (Temporary Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

785.22—Criteria to be satisfied at time of decision

785.221

(1) Subclause (2) or (3) is satisfied.

(2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The Minister is satisfied that:
  (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
  (b) the applicant mentioned in subclause (2) has been granted a Subclass 785 (Temporary Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

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785.222

The applicant has undergone a medical examination carried out by any of the following (a ***relevant medical practitioner***):

(a) a Medical Officer of the Commonwealth;

(b) a medical practitioner approved by the Minister for the purposes of this paragraph;

(c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

785.223

(1) One of subclauses (2) to (5) is satisfied.

(2) The applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.

(3) The applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested the examination mentioned in subclause (2).

(4) The applicant is a person:

(a) who is confirmed by a relevant medical practitioner to be pregnant; and

(b) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and

(c) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and

(d) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

(5) The applicant:

(a) is an unauthorised maritime arrival; and

(b) holds or has held a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; and

(c) at the time the visa was granted, satisfied any of the following:

(i) subclause (3) of this clause;

(ii) this subclause;

(iii) subclause 790.223(3);

(iv) subclause 790.223(5).

785.224

(1) A relevant medical practitioner has considered:

(a) the results of any tests carried out for the purposes of the medical examination required under clause 785.222; and

(b) the radiological report (if any) required under clause 785.223 in respect of the applicant.

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Clause 785.225

(2) If the relevant medical practitioner:
  (a) is not a Medical Officer of the Commonwealth; and
  (b) considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

the relevant medical practitioner has referred any relevant results and reports to a Medical Officer of the Commonwealth.

785.225

If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

785.226

The applicant:
  (a) satisfies public interest criteria 4001 and 4003A; and
  (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

785.227

The Minister is satisfied that the grant of the visa is in the national interest.

785.228

(1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.

(2) The Minister is satisfied that:
  (a) the applicant is a member of the same family unit as an applicant to whom subclause 785.221(2) applies; and
  (b) the applicant to whom subclause 785.221(2) applies has been granted a Subclass 785 (Temporary Protection) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 785.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

785.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

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785.4—Circumstances applicable to grant

785.411

The applicant must be in Australia when the visa is granted.

785.5—When visa is in effect

785.511

Temporary visa permitting the holder to remain in, travel to and enter Australia until:

(a) in a case in which the holder of the temporary visa (the ***first visa***) makes a valid application for another Subclass 785 (Temporary Protection) visa, or a Subclass 790 (Safe Haven Enterprise) visa, within 3 years after the grant of the first visa:

(i) if the application is withdrawn—the later of:

(A) the day the application is withdrawn; or

(B) the end of 3 years from the date of the grant of the first visa, or the end of any shorter period specified by the Minister, whichever occurs earlier; and

(ii) if the application is not withdrawn—35 days after the day the application is finally determined; and

(aa) in a case where the holder of the first visa makes a valid application for a Resolution of Status (Class CD) visa on the basis of meeting the requirements of item 4, 5, 6 or 7 of the table in subitem 1127AA(3) of Schedule 1, or is taken to have made a valid application for a Resolution of Status (Class CD) visa under regulation 2.08G:

(i) if the application is withdrawn—the later of:

(A) the day the application is withdrawn; or

(B) the end of 3 years from the date of the grant of the first visa, or the end of any shorter period specified by the Minister, whichever occurs earlier; and

(ii) if the application is not withdrawn—35 days after the day the application is finally determined; and

(b) in any other case—the earlier of:

(i) the end of 3 years from the date of grant of the first visa; and

(ii) the end of any shorter period, specified by the Minister, from the date of grant of the first visa.

785.6—Conditions

785.611

Conditions 8503, 8570 and 8565.

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Subclass 786—Temporary (Humanitarian Concern)

786.1—Interpretation

Note: No interpretation provisions specific to this Part.

786.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

786.21—Criteria to be satisfied at time of application

786.211

The applicant is the holder of a Temporary Safe Haven (Class UJ) visa.

786.22—Criteria to be satisfied at time of decision

786.221

The Minister is satisfied that, for reasons of humanitarian concern, the applicant should be permitted to remain in Australia for a further period.

786.222

The applicant has undergone a medical examination carried out by any of the following (a ***relevant medical practitioner***):

(a) a Medical Officer of the Commonwealth;
(b) a medical practitioner approved by the Minister for the purposes of this paragraph;
(c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

786.223

(1) Subject to subclause (2), the applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.

(2) Subclause (1) does not apply to an applicant if the applicant:
(a) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
(b) is a person:
(i) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
(ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and

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(iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
(iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

786.224

The applicant satisfies public interest criterion 4001 or, if the applicant is unable to satisfy that criterion because the appropriate inquiries have not been completed, the applicant declares in writing, to the satisfaction of the Minister, that the applicant:

(a) does not have a criminal record; and
(b) is not a terrorist; and
(c) has not engaged in crimes against humanity or war crimes; and
(d) will assist Immigration by attempting to obtain any relevant records relating to the applicant.

786.225

The applicant satisfies public interest criteria 4002 and 4003A.

786.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

786.4—Circumstances applicable to grant

786.411

The applicant must be in Australia.

786.5—When visa is in effect

786.511

Temporary visa permitting the holder to remain in, but not re-enter, Australia until the earlier of:

(a) the end of 36 months from the date of grant of the visa; and
(b) the end of any shorter period determined in writing by the Minister from the date of grant of the visa.

786.6—Conditions

786.611

The holder must notify Immigration of any change in the holder's address at least 2 working days before the change.

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Clause 786.612

786.612

The holder must not become involved in any disruptive activity, or violence, that may be a threat to the welfare of the Australian community or a group in the Australian community.

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Subclass 790—Safe Haven Enterprise

790.1—Interpretation

Note 1: For ***member of the same family unit***, see subsection 5(1) of the Act.

Note 2: There are no interpretation provisions specific to this Part.

790.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

790.21—Criteria to be satisfied at time of application

790.211

(1) Subclause (2) or (3) is satisfied.

(2) The applicant:
  (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
  (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The applicant claims to be a member of the same family unit as a person:
  (a) to whom subclause (2) applies; and
  (b) who is an applicant for a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

790.22—Criteria to be satisfied at time of decision

790.221

(1) Subclause (2) or (3) is satisfied.

(2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The Minister is satisfied that:
  (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
  (b) the applicant mentioned in subclause (2) has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

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Clause 790.222

790.222

The applicant has undergone a medical examination carried out by any of the following (a ***relevant medical practitioner***):

(a) a Medical Officer of the Commonwealth;

(b) a medical practitioner approved by the Minister for the purposes of this paragraph;

(c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

790.223

(1) One of subclauses (2) to (5) is satisfied.

(2) The applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.

(3) The applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested the examination mentioned in subclause (2).

(4) The applicant is a person:

(a) who is confirmed by a relevant medical practitioner to be pregnant; and

(b) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and

(c) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and

(d) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

(5) The applicant:

(a) is an unauthorised maritime arrival; and

(b) holds or has held a Subclass 785 (Temporary Protection) visa or a Subclass 790 (Safe Haven Enterprise) visa; and

(c) at the time the visa was granted, satisfied any of the following:

(i) subclause 785.223(3);

(ii) subclause 785.223(5);

(iii) subclause (3) of this clause;

(iv) this subclause.

790.224

(1) A relevant medical practitioner has considered:

(a) the results of any tests carried out for the purposes of the medical examination required under clause 790.222; and

(b) the radiological report (if any) required under clause 790.223 in respect of the applicant.

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(2) If the relevant medical practitioner:
  (a) is not a Medical Officer of the Commonwealth; and
  (b) considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

the relevant medical practitioner has referred any relevant results and reports to a Medical Officer of the Commonwealth.

790.225

If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

790.226

The applicant:
  (a) satisfies public interest criteria 4001 and 4003A; and
  (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

790.227

The Minister is satisfied that the grant of the visa is in the national interest.

790.228

(1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.

(2) The Minister is satisfied that:
  (a) the applicant is a member of the same family unit as an applicant to whom subclause 790.221(2) applies; and
  (b) the applicant to whom subclause 790.221(2) applies has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 790.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

790.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

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Clause 790.411

790.4—Circumstances applicable to grant

790.411

The applicant must be in Australia when the visa is granted.

790.5—When visa is in effect

790.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until:

(a) in a case in which the holder of the temporary visa (the ***first visa***) makes a valid application for another Subclass 790 (Safe Haven Enterprise) visa or a Subclass 785 (Temporary Protection) visa, within 5 years after the grant of the first visa:

(i) if the application is withdrawn—the later of the day the application is withdrawn, and the end of 5 years from the date of the grant of the first visa; and

(ii) if the application is not withdrawn—35 days after the day the application is finally determined; or

(aa) in a case where the holder of the first visa makes a valid application for a Resolution of Status (Class CD) visa on the basis of meeting the requirements of item 4, 5, 6 or 7 of the table in subitem 1127AA(3) of Schedule 1, or is taken to have made a valid application for a Resolution of Status (Class CD) visa under regulation 2.08G:

(i) if the application is withdrawn—the later of the day the application is withdrawn, and the end of 5 years from the date of the grant of the first visa; and

(ii) if the application is not withdrawn—35 days after the day the application is finally determined; or

(b) in any other case—the end of 5 years from the date of grant of the first visa.

790.6—Conditions

790.611

Conditions 8565 and 8570.

Note: There is nothing in the Act or these regulations which restricts the ability of the holder of the visa to study or work as he or she sees fit.

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Subclass 800—Territorial Asylum

800.1—Interpretation

Note: No interpretation provisions specific to this Part.

800.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

800.21—Criteria to be satisfied at time of application

800.211

The applicant has been granted territorial asylum in Australia by instrument of a Minister.

800.22—Criteria to be satisfied at time of decision

800.221

The applicant continues to satisfy the criterion in clause 800.211.

800.221A

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

800.222

(1) Each person who is a member of the family unit of the applicant and who is also an applicant for a Subclass 800 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and

(b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) Each person who is a member of the family unit of the applicant and is not an applicant for a Subclass 800 visa satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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800.223

If a person (in this clause called the additional applicant):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

800.3—Secondary criteria

Note: The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

800.31—Criteria to be satisfied at time of application

800.311

The applicant is a member of the family unit of a person who satisfies or has satisfied the primary criteria in Subdivision 800.21.

800.32—Criteria to be satisfied at time of decision

800.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 800 visa.

800.322

The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

800.323

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

800.4—Circumstances applicable to grant

800.411

The applicant must be in the migration zone when the visa is granted.

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800.5—When visa is in effect

800.511

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from date of grant.

800.6—Conditions: Nil.

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Subclass 801—Partner

801.1—Interpretation

801.111

In this Part:

sponsoring partner means:

(a) an Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for the Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa as the spouse or de facto partner of the applicant; or

(b) for a person to whom the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa—an Australian citizen, Australian permanent resident or eligible New Zealand citizen who was the spouse or de facto partner of that person at the time the visa was granted.

Note: ***Australian permanent resident***, ***eligible New Zealand citizen*** and ***long-term partner relationship*** are defined in regulation 1.03, ***de facto partner*** is defined in section 5CB of the Act (also see regulation 1.09A), and ***spouse*** is defined in section 5F of the Act (also see regulation 1.15A).

801.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

801.21—[No criteria to be satisfied at time of application.]

801.22—Criteria to be satisfied at time of decision

801.221

(1) The applicant meets the requirements of subclause (2), (2A), (3), (4), (5), (6), (6AA), (6AB) or (8).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant is the holder of a Subclass 820 visa; and

(b) the applicant continues to be sponsored for the grant of the Subclass 820 (Partner) visa by:

(i) the sponsoring partner; or

(ii) the Australian citizen, Australian permanent resident or eligible New Zealand citizen who sponsored the applicant for that visa; and

(c) the applicant is the spouse or de facto partner of the sponsoring partner; and

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(d) subject to subclauses (6A) and (7), at least 2 years have passed since the application was made.

(2A) An applicant meets the requirements of this subclause if:

(a) the applicant is the holder of a Subclass 820 (Partner) visa which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant to the applicant; and

(b) the applicant is the spouse or de facto partner of the sponsoring partner; and

(c) subject to subclauses (6A) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).

(3) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221(2).

(4) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221(3).

(5) An applicant meets the requirements of this subclause if the applicant:

(a) is the holder of a Subclass 820 visa; and

(b) would meet the requirements of subclause (2) or (2A) except that the sponsoring partner has died; and

(c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died.

(6) An applicant meets the requirements of this subclause if:

(a) the applicant is the holder of a Subclass 820 visa; and

(b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and

(c) either or both of the following circumstances applies:

(i) either or both of the following:

(A) the applicant;

(B) a dependent child of the sponsoring partner or of the applicant or of both of them;

has experienced family violence committed by the sponsoring partner;

(ii) the applicant:

(A) has custody or joint custody of, or access to; or

(B) has a residence order or contact order made under the *Family Law Act 1975* relating to;

at least 1 child in respect of whom the sponsoring partner:

(C) has been granted joint custody or access by a court; or

(D) has a residence order or contact order made under the *Family Law Act 1975*; or

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(E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note: For special provisions relating to family violence, *see* Division 1.5.

(6AA) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant continued to meet the requirements of subclause 820.211(7) or (8).

(6AB) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant continued to meet the requirements of subclause 820.211(9).

(6A) Paragraphs (2)(d) and (2A)(c) do not apply to an applicant who at the time of making the application was in a long-term partner relationship with the sponsoring partner.

(7) Nothing in paragraphs (2)(d) and (2A)(c) prevents the Minister, less than 2 years after the application is made:
(a) refusing to grant a Subclass 801 visa; or
(d) approving the grant of a Subclass 801 visa to an applicant who meets the requirements of subclause (5) or (6).

(8) The applicant meets the requirements of this subclause:
(a) if the applicant held a Subclass 820 (Partner) visa that ceased on notification of a decision of the Minister to refuse a Subclass 801 visa; and
(b) if the ART:
(i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa; or
(ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa.

801.223

(1) The applicant:
(a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) Paragraph (1)(a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant satisfied the requirements of subclause 820.211(3), (4) or (5).

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801.224

(1) Each member of the family unit of the applicant who is an applicant for a Subclass 801 visa is a person who:
  (a) subject to subclause (3)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
  (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
  (c) satisfies public interest criterion 4020.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 801 visa is a person who:
  (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(3) Paragraph (1)(a) does not apply to an applicant who meets the requirements of clause 801.321 as the holder of a Subclass 820 visa granted on the basis that the applicant:
  (a) was the dependent child of a person who met the requirements of subclause 820.211(3), (4) or (5); and
  (b) entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

801.225

If a person (in this clause called the ***additional applicant***):
  (a) is a member of the family unit of the applicant; and
  (b) has not turned 18; and
  (c) made a combined application with the applicant—

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

801.226

The applicant satisfies public interest criteria 4020 and 4021.

801.3—Secondary criteria

Note: A dependent child, or member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant meeting the primary criteria.

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Clause 801.311

801.31—Criteria to be satisfied at time of application

801.311

(1) The applicant meets the requirements of subclause (2) or (3).

(2) An applicant meets the requirements of this subclause if the applicant is:
  (a) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
  (b) a member of the family unit of a person who:
    (i) is the holder of, or has been the holder of, a Subclass 300 (Prospective Marriage) visa; and
    (ii) has applied for a Partner (Residence) (Class BS) visa;

and the Minister has not decided to grant or refuse to grant a visa to the person.

(3) An applicant meets the requirements of this subclause if:
  (a) the applicant is the holder of a Subclass 820 (Partner) visa which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant to the applicant; and
  (b) the applicant is a member of the family unit of a person who:
    (i) is the holder of a Subclass 820 (Partner) visa; and
    (ii) has applied for a Partner (Residence) (Class BS) visa; and
  (c) the Minister has not decided to grant or refuse to grant a visa to the person.

801.32—Criteria to be satisfied at time of decision

801.321

An applicant meets the requirements of this clause if:
  (a) any of the following applies:
    (i) the applicant is the holder of:
      (A) a Subclass 445 (Dependent Child) visa; or
      (C) a Subclass 820 (Partner) visa;
    (ii) the applicant was the holder of:
      (A) a Subclass 445 visa; or
      (B) a Subclass 820 visa;
    which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child or of whose family unit the applicant is a member;
    (iii) the applicant is a person:
      (A) who holds:
        (I) a Subclass 445 (Dependent Child) visa; or
        (II) a Subclass 820 (Spouse) visa; or
        (III) a Subclass 820 (Partner) visa;
      which the Minister has decided, under section 351 or 501J, or repealed section 417, of the Act, to grant to the applicant; and

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(B) who, at the time the visa mentioned in sub-subparagraph (A) was granted, was the dependent child, or a member of the family unit, as the case requires, of another person who was the holder of a Subclass 445 (Dependent Child) visa, Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa; and

(b) that other person has been granted a Subclass 801 visa.

801.323

(1) The applicant:

(a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and

(b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

(2) Paragraph (1)(a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant met the requirements of clause 820.311 as the dependent child of a person:

(a) who satisfied the requirements of subclause 820.211(3), (4) or (5); and

(b) who entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

801.324

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

801.325

The applicant satisfies public interest criteria 4020 and 4021.

801.4—Circumstances applicable to grant

801.411

The applicant must be:

(a) in Australia, but not in immigration clearance; or

(b) outside Australia;

when the visa is granted.

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Clause 801.511

801.5—When visa is in effect

801.511

Permanent visa permitting the holder to travel to and enter Australia for 5 years from date of grant.

801.6—Conditions: Nil.

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