Migration Amendment Regulations 2007 (No. 4)[1]

Select Legislative Instrument 2007 No. 166

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 21 June 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

KEVIN ANDREWS
Minister for Immigration and Citizenship

Contents

1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2007 (No. 4)*.

2 Commencement

These Regulations commence on 1 July 2007.

3 Amendment of *Migration Regulations 1994*

(1) Schedule 1 amends the *Migration Regulations 1994*.

(2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 July 2007.

4 Amendment of *Migration Regulations 1994*

(1) Schedule 2 amends the *Migration Regulations 1994*.

(2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2007.

5 Amendment of *Migration Regulations 1994*

(1) Schedule 3 amends the *Migration Regulations 1994*.

(2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 July 2007.

6 Amendment of *Migration Regulations 1994*

(1) Schedule 4 amends the *Migration Regulations 1994*.

(2) The amendment made by item [1] of Schedule 4 applies in relation to an application:

   (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2007; or

   (b) made on or after 1 July 2007.

(3) The amendment made by item [2] of Schedule 4 applies in relation to a person who, on or after 1 July 2007, is in detention under any of the following Acts:

   (a) the *Environment Protection and Biodiversity Conservation Act 1999*;

   (b) the *Fisheries Management Act 1991*;

   (c) the *Torres Strait Fisheries Act 1984*.

Schedule 1   Amendments relating to student visa welfare arrangements
(regulation 3)

[1]   Schedule 1, after paragraph 1222 (3) (f)

insert

(g)   In the case of an application to which paragraph (h) applies, the application must be accompanied by:

  (i)   evidence of an intention to reside in Australia with a person who:

    (A)   is a parent of the applicant or a person who has custody of the applicant; or

    (B)   is:

      (I)   a relative of the applicant; and

      (II)   nominated by a parent of the applicant or a person who has custody of the applicant; and

      (III)   aged at least 21; or

  (ii)   evidence that the education provider for the course in which the applicant is enrolled has made appropriate arrangements for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:

    (A)   certificate of enrolment; or

    (B)   electronic confirmation of enrolment; or

    (C)   Acceptance Advice of Secondary Exchange Student (AASES);

  plus 7 days after the end of that period.

(h)   This paragraph applies to an application if:

  (i)   the application is made in Australia; and

> (ii) the application is made on form 157A or 157A (Internet); and
> (iii) the applicant is under 18 years of age; and
> (iv) the applicant is not:
>> (A) an AusAID student; or
>> (B) a Defence student.

[2]   Schedule 4, paragraph 4012A (b)

omit

> during the applicant's stay in Australia.

insert

> for at least the minimum period of enrolment stated on the applicant's:
> (i) certificate of enrolment; or
> (ii) electronic confirmation of enrolment; or
> (iii) Acceptance Advice of Secondary Exchange Student (AASES);
> plus 7 days after the end of that period.

[3]   Schedule 8, paragraph 8532 (b)

omit

> relates.

insert

> relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence.

Schedule 2   Amendments relating to fees
(regulation 4)

[1]   Subregulation 1.20C (3)

omit
   $270

insert
   $280

[2]   Paragraph 1.20G (5) (b)

omit
   $265

insert
   $275

[3]   Paragraph 1.20G (5) (c)

omit
   $265

insert
   $275

[4]   Subregulation 1.20GA (4)

omit
   $265

insert
   $275

[5]   Subregulation 1.20N (3)

omit
    $1 080

insert
    $1 120

[6]   Subregulation 1.20UK (3)

omit
    $1 050

insert
    $1 120

[7]   Subregulation 5.37 (1)

omit
    $350

insert
    $365

[8]   Paragraph 5.38 (2) (a)

omit
    $2 600

insert
    $2 700

[9]   Paragraph 5.38 (2) (b)

omit
    $260

insert
    $270

[10]   Schedule 1, paragraph 1104AA (2) (a)

omit
$3 860

insert
$3 995

[11]   Schedule 1, sub-subparagraph 1104AA (2) (b) (i) (C)

omit
$5 540

insert
$5 735

[12]   Schedule 1, sub-subparagraph 1104AA (2) (b) (ii) (C)

omit
$2 765

insert
$2 860

[13]   Schedule 1, paragraph 1104A (2) (a)

omit
$3 860

insert
$3 995

[14]   Schedule 1, sub-subparagraph 1104A (2) (b) (i) (C)

omit
$5 540

insert
$5 735

[15]   Schedule 1, sub-subparagraph 1104A (2) (b) (ii) (C)

omit
$2 765

insert
$2 860

[16]   Schedule 1, subparagraph 1104B (2) (a) (i)

omit
$185

insert
$190

[17]   Schedule 1, subparagraph 1104B (2) (a) (ii)

omit
$1 110

insert
$1 145

[18]   Schedule 1, sub-subparagraph 1104B (2) (b) (i) (E)

omit
$2 765

insert
$2 860

[19]   Schedule 1, subparagraph 1108 (2) (a) (ii)

omit
$820

insert
$850

[20]   Schedule 1, subparagraph 1108 (2) (a) (iii)

omit
   $1 340

insert
   $1 390

[21]   Schedule 1, subparagraph 1108A (2) (a) (ii)

omit
   $820

insert
   $850

[22]   Schedule 1, subparagraph 1108A (2) (a) (iv)

omit
   $1 990

insert
   $2 060

[23]   Schedule 1, subparagraph 1111 (2) (a) (i)

omit
   $155

insert
   $160

[24]   Schedule 1, paragraph 1112 (2) (a)

omit
   $1 340

insert
   $1 390

[25]   Schedule 1, subparagraph 1112 (2) (b) (i)

omit

$2 765

insert

$2 860

[26]   Schedule 1, paragraph 1113 (2) (a)

omit

$1 990

insert

$2 060

[27]   Schedule 1, subparagraph 1113 (2) (b) (i)

omit

$2 765

insert

$2 860

[28]   Schedule 1, subparagraph 1114 (2) (a) (ii)

omit

$1 340

insert

$1 390

[29]   Schedule 1, sub-subparagraph 1114 (2) (b) (i) (C)

omit

$5 540

insert

$5 735

[30]   Schedule 1, sub-subparagraph 1114 (2) (b) (ii) (C)

omit

$2 765

insert

$2 860

[31]   Schedule 1, subparagraph 1114 (2) (b) (iv)

omit

$1 305

insert

$1 350

[32]   Schedule 1, subparagraph 1114A (2) (a) (ii)

omit

$185

insert

$190

[33]   Schedule 1, subparagraph 1114A (2) (a) (iii)

omit

$1 990

insert

$2 060

[34]   Schedule 1, sub-subparagraph 1114A (2) (b) (i) (C)

omit

$5 540

insert

$5 735

[35]   Schedule 1, sub-subparagraph 1114A (2) (b) (ii) (C)

omit
   $2 765

insert
   $2 860

[36]   Schedule 1, subparagraph 1118A (2) (a) (i)

omit
   $1 990

insert
   $2 060

[37]   Schedule 1, subparagraph 1118A (2) (a) (ii)

omit
   $1 340

insert
   $1 390

[38]   Schedule 1, subparagraph 1118A (2) (b) (i)

omit
   $2 765

insert
   $2 860

[39]   Schedule 1, subparagraph 1121 (2) (a) (ii)

omit
   $1 340

insert
   $1 390

[40]   Schedule 1, sub-subparagraph 1121 (2) (b) (i) (C)

omit
   $5 540

insert
   $5 735

[41]   Schedule 1, sub-subparagraph 1121 (2) (b) (ii) (C)

omit
   $2 765

insert
   $2 860

[42]   Schedule 1, subparagraph 1121 (2) (b) (v)

omit
   $1 305

insert
   $1 350

[43]   Schedule 1, subparagraph 1121A (2) (a) (ii)

omit
    $1 990

insert
   $2 060

[44]   Schedule 1, sub-subparagraph 1121A (2) (b) (i) (C)

omit
   $5 540

insert
   $5 735

[45]   Schedule 1, sub-subparagraph 1121A (2) (b) (ii) (C)

omit

$2 765

insert

$2 860

[46]   Schedule 1, subparagraph 1123A (2) (a) (i)

omit

$820

insert

$850

[47]   Schedule 1, subparagraph 1123A (2) (a) (ii)

omit

$1 340

insert

$1 390

[48]   Schedule 1, subparagraph 1123A (2) (b) (ii)

omit

$1 165

insert

$1 205

[49]   Schedule 1, subparagraph 1123B (2) (a) (i)

omit

$820

insert

$850

[50]   Schedule 1, subparagraph 1123B (2) (a) (ii)

omit
   $1 990

insert
   $2 060

[51]   Schedule 1, subparagraph 1123B (2) (b) (ii)

omit
   $1 165

insert
   $1 205

[52]   Schedule 1, paragraph 1124 (2) (a)

omit
   $1 340

insert
   $1 390

[53]   Schedule 1, paragraph 1124 (2) (b)

omit
   $1 165

insert
   $1 205

[54]   Schedule 1, paragraph 1124A (2) (a)

omit
   $1 990

insert
   $2 060

[55]   Schedule 1, paragraph 1124A (2) (b)

omit

$1 165

insert

$1 205

[56]   Schedule 1, subparagraph 1124B (2) (a) (ii)

omit

$235

insert

$240

[57]   Schedule 1, sub-subparagraph 1124B (2) (a) (iii) (D)

omit

$820

insert

$850

[58]   Schedule 1, sub-subparagraph 1124B (2) (a) (iv) (C)

omit

$820

insert

$850

[59]   Schedule 1, sub-subparagraph 1124B (2) (a) (v) (C)

omit

$650

insert

$670

[60]   Schedule 1, sub-subparagraph 1124B (2) (a) (vi) (D)

omit
   $820

insert
   $850

[61]   Schedule 1, subparagraph 1124B (2) (a) (vii)

omit
   $1 990

insert
   $2 060

[62]   Schedule 1, subparagraph 1128AA (2) (b) (i)

omit
   $1 940

insert
   $2 005

[63]   Schedule 1, subparagraph 1128AA (2) (b) (ii)

omit
   $2 765

insert
   $2 860

[64]   Schedule 1, subparagraph 1128B (2) (a) (ii)

omit
   $1 990

insert
   $2 060

[65]   Schedule 1, subparagraph 1128B (2) (b) (i)

omit
$2 765

insert
$2 860

[66]   Schedule 1, paragraph 1128BA (2) (a)

omit
$1 990

insert
$2 060

[67]   Schedule 1, subparagraph 1128BA (2) (b) (i)

omit
$2 765

insert
$2 860

[68]   Schedule 1, subparagraph 1128C (2) (a) (ii)

omit
$185

insert
$190

[69]   Schedule 1, subparagraph 1128C (2) (a) (iii)

omit
$1 990

insert
$2 060

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[70]   Schedule 1, subparagraph 1128C (2) (b) (i)

omit
   $2 765

insert
   $2 860

[71]   Schedule 1, paragraph 1128CA (2) (a)

omit
   $1 990

insert
   $2 060

[72]   Schedule 1, subparagraph 1128CA (2) (b) (i)

omit
   $2 765

insert
   $2 860

[73]   Schedule 1, paragraph 1128D (2) (a)

omit
   $1 990

insert
   $2 060

[74]   Schedule 1, subparagraph 1128D (2) (b) (i)

omit
   $2 765

insert
   $2 860

[75] Schedule 1, subparagraph 1129 (2) (a) (ii)

omit

   $1 340

insert

   $1 390

[76] Schedule 1, subparagraph 1130 (2) (a) (i)

omit

   $185

insert

   $190

[77] Schedule 1, sub-subparagraph 1130 (2) (a) (ia) (B)

omit

   $185

insert

   $190

[78] Schedule 1, subparagraph 1130 (2) (a) (iii)

omit

   $1 340

insert

   $1 390

[79] Schedule 1, subparagraph 1130 (2) (b) (i)

omit

   $11 730

insert

   $12 625

[80]   Schedule 1, sub-sub-subparagraph 1130 (2) (b) (ia) (A) (III)

omit
   $11 730

insert
   $12 625

[81]   Schedule 1, sub-subparagraph 1130 (2) (b) (iii) (B)

omit
   $1 265

insert
   $1 365

[82]   Schedule 1, subparagraph 1130 (2) (b) (iv)

omit
   $29 330

insert
   $31 555

[83]   Schedule 1, subparagraph 1130A (2) (a) (ii)

omit
   $185

insert
   $190

[84]   Schedule 1, sub-subparagraph 1130A (2) (a) (iia) (B)

omit
   $185

insert
   $190

[85]   Schedule 1, subparagraph 1130A (2) (a) (iii)

omit
    $1 990

insert
    $2 060

[86]   Schedule 1, subparagraph 1130A (2) (b) (i)

omit
    $11 730

insert
    $12 625

**[87]   Schedule 1,
    sub-sub-subparagraph 1130A (2) (b) (ia) (A) (III)**

omit
    $11 730

insert
    $12 625

[88]   Schedule 1, sub-subparagraph 1130A (2) (b) (iii) (B)

omit
    $1 265

insert
    $1 365

[89]   Schedule 1, subparagraph 1130A (2) (b) (iv)

omit
    $29 330

insert
    $31 555

[90]   Schedule 1, paragraph 1134 (2) (a)

omit
$185

insert
$190

[91]   Schedule 1, sub-subparagraph 1134 (2) (b) (i) (D)

omit
$2 765

insert
$2 860

[92]   Schedule 1, sub-subparagraph 1134 (2) (b) (ii) (C)

omit
$2 765

insert
$2 860

[93]   Schedule 1, paragraph 1202A (2) (a)

omit
$2 645

insert
$2 735

[94]   Schedule 1, sub-subparagraph 1202A (2) (b) (i) (C)

omit
$5 540

insert
$5 735

[95]   Schedule 1, sub-subparagraph 1202A (2) (b) (ii) (C)

omit
   $2 765

insert
   $2 860

[96]   Schedule 1, subparagraph 1205 (2) (a) (iv)

omit
   $1 850

insert
   $1 900

[97]   Schedule 1, subparagraph 1205 (2) (a) (iva)

omit
   $1 850

insert
   $1 900

[98]   Schedule 1, subparagraph 1205 (2) (a) (v)

omit
   $185

insert
   $190

[99]   Schedule 1, paragraph 1207 (2) (a)

omit
   $185

insert
   $190

[100]   Schedule 1, subparagraph 1208 (2) (a) (ii)

omit

$185

insert

$190

[101]   Schedule 1, subparagraph 1208A (2) (a) (i)

omit

$70

insert

$75

[102]   Schedule 1, subparagraph 1211 (2) (a) (ii)

omit

$145

insert

$150

[103]   Schedule 1, paragraph 1212A (2) (a)

omit

$185

insert

$190

[104]   Schedule 1, paragraph 1212B (2) (a)

omit

$185

insert

$190

[105]   Schedule 1, paragraph 1212B (2) (b)

omit

$8 215

insert

$8 505

[106]   Schedule 1, paragraph 1214AA (2) (a)

omit

$185

insert

$190

[107]   Schedule 1, subparagraph 1214A (2) (a) (ii)

omit

$180

insert

$185

[108]   Schedule 1, paragraph 1214BA (2) (a)

omit

$185

insert

$190

[109]   Schedule 1, paragraph 1215 (2) (a)

omit

$1 340

insert

$1 390

[110]   Schedule 1, subparagraph 1216A (2) (a) (ii)

omit
    $2 285

insert
    $2 365

[111]   Schedule 1, sub-subparagraph 1216A (2) (b) (i) (D)

omit
    $5 050

insert
    $5 225

[112]   Schedule 1, sub-subparagraph 1216A (2) (b) (ii) (D)

omit
    $2 530

insert
    $2 620

[113]   Schedule 1, sub-subparagraph 1216A (2) (b) (iii) (C)

omit
    $2 530

insert
    $2 620

[114]   Schedule 1, subparagraph 1217 (2) (a) (ii)

omit
    $185

insert
    $190

[115]   Schedule 1, subparagraph 1217A (2) (a) (i)

omit
    $70

insert
    $75

[116]   Schedule 1, sub-subparagraph 1218 (2) (a) (ii) (A)

omit
    $70

insert
    $75

[117]   Schedule 1, sub-subparagraph 1218 (2) (a) (ii) (B)

omit
    $205

insert
    $215

[118]   Schedule 1, subparagraph 1218A (2) (a) (i)

omit
    $185

insert
    $190

[119]   Schedule 1, subparagraph 1218A (2) (a) (ii)

omit
    $185

insert
    $190

[120]   Schedule 1, subparagraph 1218A (2) (a) (iii)

omit

$1 990

insert

$2 060

[121]   Schedule 1, sub-subparagraph 1218A (2) (b) (i) (D)

omit

$2 765

insert

$2 860

[122]   Schedule 1, sub-subparagraph 1218A (2) (b) (ii) (C)

omit

$2 765

insert

$2 860

[123]   Schedule 1, paragraph 1220B (2) (a)

omit

$185

insert

$190

[124]   Schedule 1, sub-subparagraph 1220B (2A) (a) (i) (D)

omit

$145

insert

$150

[125]   Schedule 1, subparagraph 1220B (2A) (a) (ii)

omit
    $430

insert
    $445

[126]   Schedule 1, subparagraph 1220B (2A) (b) (iii)

omit
    $3 390

insert
    $3 510

[127]   Schedule 1, subparagraph 1221 (2) (a) (iii)

omit
    $1 340

insert
    $1 390

[128]   Schedule 1, sub-subparagraph 1221 (2) (b) (i) (B)

omit
    $1 265

insert
    $1 365

[129]   Schedule 1, subparagraph 1221 (2) (b) (iii)

omit
    $17 595

insert
    $18 935

[130]   Schedule 1, subparagraph 1221A (2) (a) (iii)

omit
$1 990

insert
$2 060

[131]   Schedule 1, sub-subparagraph 1221A (2) (b) (i) (B)

omit
$1 265

insert
$1 365

[132]   Schedule 1, subparagraph 1221A (2) (b) (iii)

omit
$17 595

insert
$18 935

[133]   Schedule 1, subparagraph 1223A (2) (a) (i)

omit
$70

insert
$75

[134]   Schedule 1, subparagraph 1223A (2) (a) (iii)

omit
$185

insert
$190

[135]   Schedule 1, paragraph 1224A (2) (a)

omit

$175

insert

$180

[136]   Schedule 1, subregulation 1225 (2)

omit

$185

insert

$190

[137]   Schedule 1, subparagraph 1226 (2) (a) (ii)

omit

$185

insert

$190

[138]   Schedule 1, subparagraph 1226 (2) (a) (iii)

omit

$1 990

insert

$2 060

[139]   Schedule 1, sub-subparagraph 1226 (2) (b) (i) (D)

omit

$2 765

insert

$2 860

[140]   Schedule 1, sub-subparagraph 1226 (2) (b) (ii) (C)

omit

   $2 765

insert

   $2 860

[141]   Schedule 1, paragraph 1302 (2) (a)

omit

   $70

insert

   $75

Schedule 3   Amendments relating to tourist visas

(regulation 5)

[1]   Schedule 1, subparagraph 1218 (2) (a) (i)

substitute

>   (i)   In the case of an applicant who:
>
>>   (A)   applies in the course of acting as a representative of a foreign government; or
>>
>>   (B)   is in a class of persons specified in an instrument in writing for this sub-subparagraph: Nil

[2]   Schedule 1, subparagraph 1218 (3) (e) (i)

omit

[3]   Schedule 1, after subparagraph 1223A (2) (a) (viii)

insert

>   (ix)   In the case of an applicant who is in a class of persons specified in an instrument in writing for this subparagraph: Nil

[4]   Schedule 2, subparagraph 676.221 (2) (c) (ii)

omit

>   4012,

[5]   Schedule 2, paragraph 676.221 (2) (e)

substitute

    (e)   if the applicant is in Australia:

      (i)   the applicant continues to satisfy the criteria in paragraph 676.215 (b); and

    (ii)   the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and

   (iii)   if the applicant is the holder of a student visa, or has been the holder of a student visa since last entering Australia — the Minister is satisfied that:

      (A)   the period of the applicant's stay in Australia is not sought for the purpose of commencing a registered course; and

      (B)   the period of the applicant's stay in Australia is not sought for the purpose of continuing or completing a registered course in which the applicant is enrolled.

[6]   Schedule 2, clause 676.212 (appearing after clause 676.611)

renumber as clause 676.612

Schedule 4   Amendments relating to information

(regulation 6)

[1]   Regulation 2.04

substitute

2.04   Circumstances in which a visa may be granted (Act, s 40)

(1) For subsection 40 (1) of the Act, and subject to these Regulations:

(a) a visa other than a visa of a class mentioned in subregulation (2) may be granted to a person who has satisfied the criteria in a relevant Part of Schedule 2 only if the circumstances set out in that Part of Schedule 2 exist; and

(b) a visa of a class mentioned in subregulation (2) may be granted to a person who has satisfied the criteria in a relevant Part of Schedule 2 only if:

(i) the circumstances set out in that Part of Schedule 2 exist; and

(ii) the person has complied with any requirement of an officer to provide one or more personal identifiers in relation to the application for the visa.

(2) For paragraph 40 (3) (a) of the Act, the circumstance is that a person is an applicant for a visa of one of the following classes:

(a) Protection (Class XA);

(b) Refugee and Humanitarian (Class XB);

(c) Temporary Safe Haven (Class UJ).

(3) For subsection 40 (5) of the Act, the circumstance is that the person is an applicant for a visa of one of the following classes:

(a) Protection (Class XA);

    (b)   Refugee and Humanitarian (Class XB);

    (c)   Temporary Safe Haven (Class UJ).

  (4) For subsection 40 (5) of the Act, the following types of personal identifier are prescribed:

    (a)   a photograph or other image of the applicant's face and shoulders;

    (b)   the applicant's signature.

[2]   Subregulation 3.30 (1)

substitute

  (1) For subsection 261AA (1) of the Act, the circumstance is that either:

    (a)   the non-citizen is in the company of, and restrained by:

        (i)   an officer; or

       (ii)   in the case of a particular non-citizen — another person directed by the Secretary to accompany and restrain the non-citizen; or

    (b)   subject to subregulation (1A), in the case of a non-citizen who, immediately prior to being detained in immigration detention, has been detained under one of the following Acts:

        (i)   the *Environment Protection and Biodiversity Conservation Act 1999*;

       (ii)   the *Fisheries Management Act 1991*;

      (iii)   the *Torres Strait Fisheries Act 1984*;

    the non-citizen has provided a personal identifier or personal identifiers in accordance with the requirements of that Act.

 (1A) Paragraph (1) (b) applies to the provision of personal identifiers only if:

    (a)   an authorised officer is satisfied that each of the personal identifiers that have been provided is usable; and

    (b)   the authorised officer is satisfied about the integrity of each of the personal identifiers.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.