



Migration Amendment Regulations 2009 (No. 2)¹

Select Legislative Instrument 2009 No. 42

I, QUENTIN BRYCE, 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 13 March 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

CHRIS EVANS
Minister for Immigration and Citizenship

1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2009 (No. 2)*.

2 Commencement

These Regulations commence on 28 March 2009.

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:
 - (a) an application for a visa made on or after 28 March 2009; and
 - (b) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 28 March 2009.

Schedule 1 Amendments

(regulation 3)

[1] After subregulation 1.12 (9)

insert

- (10) In addition to subregulation (1), a person is a member of the family unit of the holder of a Subclass 457 (Business (Long Stay)) visa (the *first visa*) if:
 - (a) the first visa was granted on the basis that the holder satisfied the primary criteria for the grant of that visa; and
 - (b) the person holds a Subclass 457 visa, or the last substantive visa held by the person was a Subclass 457 visa, granted on the basis that he or she satisfied the requirements of paragraph (1) (b), (c) or (e); and
 - (c) if the person holds a Subclass 457 visa, or the last substantive visa held by the person was a Subclass 457 visa, granted on the basis that he or she was:
 - (i) a dependent child of the spouse of the holder of the first visa; or

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- (ii) a dependent child of a dependent child of the spouse of the holder of the first visa; or
 - (iii) a relative of the spouse of the holder of the first visa; the holder of the first visa is still the spouse of the person who was the spouse; and
 - (d) the person:
 - (i) has made a valid application for a Temporary Business Entry (Class UC) visa that is current; and
 - (ii) has not made a valid application for any other class of visa, other than an application that:
 - (A) has been finally determined (within the meaning of subsection 5 (9) of the Act); or
 - (B) has been withdrawn; and
 - (e) the person is under the age of 21; and
 - (f) the person:
 - (i) is not the spouse of another person; and
 - (ii) is not the interdependent partner of another person.

[2] Schedule 2, after clause 457.321

insert

- 457.321A For clause 457.321, in addition to any other regulation, a person (***person 1***) is the dependent child of a person who is the interdependent partner of another person (***person 2***) if:
- (a) person 2 holds a Subclass 457 visa that was granted on the basis that person 2 satisfied the primary criteria for grant of the Subclass 457 visa; and
 - (b) person 1 holds a Subclass 457 visa, or the last substantive visa held by person 1 was a Subclass 457 visa, that was granted on the basis that he or she was a dependent child of the interdependent partner in the circumstances described in paragraph 457.321 (c); and
 - (c) the interdependent partner and person 2 are still in an interdependent relationship; and
 - (d) person 1 is under the age of 21; and
 - (e) person 1:
 - (i) is not the spouse of another person; and

- (ii) is not the interdependent partner of another person.

[3] Schedule 2, paragraph 457.511 (d)

substitute

- (d) in the case of a holder:
- (i) to whom paragraph (a), (b) or (c) would apply; and
 - (ii) whose visa was granted on the basis that he or she was a member of the family unit of the holder of a visa in the circumstances described in subregulation 1.12 (10);
- to remain in Australia until the earlier of:
- (iii) the end of the period in paragraph (a), (b) or (c) that would have applied to the holder; and
 - (iv) the end of the day before the holder's 21st birthday; and
- (e) in the case of a holder:
- (i) to whom paragraph (a), (b) or (c) would apply; and
 - (ii) whose visa was granted on the basis that he or she was a dependent child of the interdependent partner in the circumstances described in clause 457.321A;
- to remain in Australia until the earlier of:
- (iii) the end of the period in paragraph (a), (b) or (c) that would have applied to the holder; and
 - (iv) the end of the day before the holder's 21st birthday; and
- (f) in any case — to travel to, and enter, Australia on multiple occasions before the end of the relevant period.

Note

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