



Migration Amendment (Enhanced Integrity) Regulations 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

David Coleman
Minister for Immigration, Citizenship and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Enhanced Integrity) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	8 December 2018
2. Schedule 1, Part 1	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of item 1 of Schedule 1 to the <i>Migration and Other Legislation Amendment (Enhanced Integrity) Act 2018</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	13 December 2018 paragraph (b) applies
3. Schedule 1, Part 2	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of item 4 of Schedule 1 to the <i>Migration and Other Legislation Amendment (Enhanced Integrity) Act 2018</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	13 December 2018 paragraph (b) applies
4. Schedule 1, Part 3	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of item 8 of Schedule 1 to the <i>Migration and Other Legislation Amendment (Enhanced Integrity) Act 2018</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	13 December 2018 paragraph (b) applies
Note:	This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.	

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- (2) Any information in column 3 of the table is not part of this instrument.
Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Public disclosure of sanctions

Migration Regulations 1994

1 After Division 2.19 of Part 2A

Insert:

Division 2.19A—Publishing information about sanctions

2.87D Publishing information about sanctions

For the purposes of subsection 140K(4) of the Act, the information that must be published by the Minister under that subsection is the following:

- (a) information that identifies the approved sponsor or former approved sponsor who failed to satisfy an applicable sponsorship obligation;
- (b) the applicable sponsorship obligation that the approved sponsor or former approved sponsor failed to satisfy;
- (c) information relating to the action taken under section 140K of the Act in relation to the approved sponsor or former approved sponsor.

Part 2—Review of decisions relating to certain visas

Migration Regulations 1994

2 Subregulation 4.02(1AA)

Repeal the subregulation.

3 Paragraph 4.02(4)(l)

Repeal the paragraph, substitute:

- (l) a decision to refuse to grant a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa to a non-citizen who is outside Australia at the time of application if:
 - (i) the non-citizen is, at the time the decision to refuse to grant the visa is made, identified in an approved nomination that has not ceased under regulation 2.75 and the nominator was, at the time the nomination was approved, a person, company or partnership referred to in subregulation (4AA); or
 - (ii) a review of a decision under section 140E of the Act not to approve the proposed sponsor of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the proposed sponsor was, at the time the decision under section 140E was made, a person, company or partnership referred to in subregulation (4AA); or
 - (iii) a review of a decision under section 140GB of the Act not to approve the nomination of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the nominator was, at the time the decision under section 140GB was made, a person, company or partnership referred to in subregulation (4AA); or
 - (iv) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the grant of the visa;

4 Subparagraph 4.02(4)(la)(ii)

Repeal the subparagraph, substitute:

- (ii) the non-citizen was sponsored or nominated, as required by a criterion for the grant of the visa, by a person, company or partnership referred to in subregulation (4AA);

5 Paragraph 4.02(4)(o)

Repeal the paragraph, substitute:

- (o) a decision to refuse to grant a Subclass 407 (Training) visa to a non-citizen who is outside Australia at the time of application if:
 - (i) the non-citizen is, at the time the decision to refuse to grant the visa is made, identified in an approved nomination that has not ceased under regulation 2.75A and the nominator was, at the time the nomination was approved, a person, company or partnership referred to in subregulation (4AA); or
 - (ii) a review of a decision under section 140E of the Act not to approve the proposed sponsor of the non-citizen is pending at the time the

- decision to refuse to grant the visa is made and the proposed sponsor was, at the time the decision under section 140E was made, a person, company or partnership referred to in subregulation (4AA); or
- (iii) a review of a decision under section 140GB of the Act not to approve the nomination of the non-citizen is pending at the time the decision to refuse to grant the visa is made and the nominator was, at the time the decision under section 140GB was made, a person, company or partnership referred to in subregulation (4AA); or
 - (iv) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the grant of the visa; or
 - (v) except if it is a criterion for the grant of the visa that the non-citizen is identified in an approved nomination that has not ceased under regulation 2.75A—the non-citizen is, at the time the decision to refuse to grant the visa is made, sponsored by an approved sponsor and the sponsor is, at that time, a Commonwealth agency;

6 Subparagraph 4.02(4)(p)(ii)

Repeal the subparagraph, substitute:

- (ii) the non-citizen was sponsored, as referred to in paragraph (a) of the definition of *passes the sponsorship test* in clause 408.111 of Schedule 2, by a person, company or partnership referred to in subregulation (4AA);

7 At the end of subregulation 4.02(4)

Add:

- (q) a decision to refuse to grant a visa prescribed under subregulation (1A) to a non-citizen if:
 - (i) the non-citizen did not seek to satisfy the primary criteria for the grant of the visa, and the grant of the visa was refused because the non-citizen did not satisfy the secondary criteria for the visa; and
 - (ii) the requirements of paragraphs 338(2)(a) to (c) of the Act are met in relation to the non-citizen and the visa.

8 After subregulation 4.02(4)

Insert:

- (4AA) For the purposes of subparagraphs 4.02(4)(l), (la), (o) and (p), the nominator or sponsor must be:
- (a) an Australian citizen; or
 - (b) a company that operates in the migration zone; or
 - (c) a partnership that operates in the migration zone; or
 - (d) the holder of a permanent visa; or
 - (e) a New Zealand citizen who holds a special category visa; or
 - (f) a Commonwealth agency.

9 Paragraphs 4.02(5)(k) and (n)

Omit “the sponsor or nominator”, substitute “the person who applied to become the sponsor or who nominated the non-citizen”.

10 At the end of subregulation 4.02(5)

Add:

- ; (p) in the case of a decision to which paragraph (4)(q) applies—a person to whose application the decision relates.

11 In the appropriate position in Schedule 13

Insert:

**Part 80—Amendments made by the Migration Amendment
(Enhanced Integrity) Regulations 2018**

8001 Operation of Part 2 of Schedule 1

The amendments of these Regulations made by Part 2 of Schedule 1 to the *Migration Amendment (Enhanced Integrity) Regulations 2018* apply in relation to decisions made after that Part commences.

Part 3—Tax file numbers

Migration Regulations 1994

12 At the end of Division 5.6 of Part 5

Add:

5.35AB Tax file numbers

- (1) For the purposes of subsection 506B(1) of the Act, the following kinds of visas are prescribed:
- (a) a Subclass 124 (Distinguished Talent) visa;
 - (b) a Subclass 132 (Business Talent) visa;
 - (c) a Subclass 186 (Employer Nomination Scheme) visa;
 - (d) a Subclass 187 (Regional Sponsored Migration Scheme) visa;
 - (e) a Subclass 188 (Business Innovation and Investment (Provisional)) visa;
 - (f) a Subclass 189 (Skilled—Independent) visa;
 - (g) a Subclass 190 (Skilled—Nominated) visa;
 - (h) a Subclass 457 (Temporary Work (Skilled)) visa;
 - (i) a Subclass 476 (Skilled—Recognised Graduate) visa;
 - (j) a Subclass 482 (Temporary Skill Shortage) visa;
 - (k) a Subclass 485 (Temporary Graduate) visa;
 - (l) a Subclass 489 (Skilled—Regional (Provisional)) visa;
 - (m) a Subclass 858 (Distinguished Talent) visa;
 - (n) a Subclass 887 (Skilled—Regional) visa;
 - (o) a Subclass 888 (Business Innovation and Investment (Permanent)) visa;
 - (p) a Subclass 890 (Business Owner) visa;
 - (q) a Subclass 891 (Investor) visa;
 - (r) a Subclass 892 (State/Territory Sponsored Business Owner) visa;
 - (s) a Subclass 893 (State/Territory Sponsored Investor) visa.

Note: As a result of this regulation, the Secretary may request certain persons to provide tax file numbers of applicants for, or holders or former holders of, the kinds of visas prescribed.

Purposes for using, recording or disclosing tax file numbers

- (2) For the purposes of subsection 506B(7) of the Act, a tax file number provided under section 506B may be used, recorded or disclosed by an officer for any of the following purposes:
- (a) verifying the identity of persons in relation to whom tax file numbers have been provided;
 - (b) ensuring compliance with the Act and these regulations by such persons, including compliance with sponsorship obligations and visa conditions;
 - (c) developing policy relating to visas of a kind prescribed under subregulation (1);
 - (d) researching, gathering intelligence, or identifying trends or risks, in relation to visas of a kind prescribed under subregulation (1).