

EXPLANATORY STATEMENT

Minute No. 16 of 2020 – Assistant Minister for Customs, Community Safety and Multicultural Affairs, Parliamentary Secretary to the Minister for Home Affairs

Subject – *Migration Act 1958*

Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020

The *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020* (the amending Regulations) will make amendments consequential to the *Migration Amendment (Regulation of Migration Agents) Act 2020* (the Regulation of Migration Agents Act) and complement the amendments made by that Act.

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

On 22 June 2020, the Regulation of Migration Agents Act received the Royal Assent.

The Regulation of Migration Agents Act amends the Migration Act to remove legal practitioners who hold an unrestricted legal practising certificate from the migration agents regulatory framework, so that they are solely regulated by the relevant State or Territory regulatory bodies for legal practitioners. It also makes other changes to strengthen the regulatory framework for migration agents and repeals redundant provisions in the Migration Act.

The amending Regulations will amend the *Migrations Agents Regulations 1998* (the Agents Regulations) as a consequence of the amendments made by the Regulation of Migration Agents Act, and to complement that Act.

In particular, the amending Regulations will:

- make amendments consequential to the Regulation of Migration Agents Act by repealing or updating references and/or provisions;
- amend the requirements for registration applications, including relevant qualification requirements;
- prescribe a period of 3 years, for when a registration application will be considered an application for repeat registration.
- amend the requirements for repeat registration applications, to reflect the new prescribed 3 year time period for those applications;
- clarify the time at which a registration application is taken to have been made;
- prescribe a period of 28 days in which, if required by the Migration Agents Registration Authority, an applicant must provide further information in relation to a registration application.

Schedule 1 to the Regulation of Migration Agents Act partially gave effect to recommendation 1 of the 2014 Independent Review of the Office of the Migration Agents Registration Authority (the Kendall Review), which is to deregulate the migration advice industry by removing legal practitioners from the migration agents regulatory framework. Schedule 2 to the Regulation of Migration Agents Act and the amending Regulations will partially give effect to recommendation 12 of the Kendall Review, by extending the time period for registration as a migration agent after completing the prescribed course from one year to three years.

The Kendall Review included an extensive consultation process that canvassed the views of relevant stakeholders across the migration advice industry. During the development stage, an exposure draft of the key amendments in the Regulation of Migration Agents Act was circulated to industry stakeholders for comment. Stakeholders consulted included the Law Council of Australia, the Migration Institute of Australia, the Legal Regulators Collaborative Group and individual State and Territory legal professional and disciplinary bodies. Given the extensive consultation already undertaken for the Regulation of Migration Agents Act, and the fact that the amending Regulations will make consequential amendments and complement that Act, no further consultation is considered to be necessary. Details of the amending Regulations are set out in the [Attachment C](#).

The Office of Best Practice Regulation has been consulted and advised that no Regulatory Impact Statements are required: OBPR Reference: 22900.

The Migration Act specifies no conditions that need to be satisfied before the power to make the amending Regulations may be exercised.

The amending Regulations will be a legislative instrument for the purposes of the *Legislation Act 2003*.

Parts 1 and 2 of Schedule 1 to the amending Regulations will commence immediately after the commencement of Schedules 1 and 2 to the Regulation of Migration Agents Act.

Part 3 of Schedule 1 to the amending Regulations will commence immediately after the commencement of Schedule 3 to the Regulation of Migration Agents Act.

Part 4 of Schedule 1 to the amending Regulations will commence at the same time as the provisions covered by Parts 1 and 2 of Schedule 1 to the amending Regulations.

The commencement dates will be determined to align with the roll-out of changes to the relevant Departmental systems and other arrangements. The Department will follow standard practices to notify clients about the introduction of the amending Regulations, including updating the Departmental websites and notifying relevant peak bodies.

The Minute recommends that the amending Regulations be made in the current form.

Authority: Subsection 504(1) of the
Migration Act 1958

AUTHORISING PROVISIONS

Subsection 504(1) of the *Migration Act 1958* (the Migration Act) relevantly provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing all matters which by the Migration Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Migration Act.

In addition, the following provisions of the Migration Act may apply:

- subsection 276(4), which provides that a person also does not give immigration assistance in the circumstances prescribed by the regulations;
- subsection 288(2), which provides the individual must satisfy 1 of 2 publishing options set out in section 288A unless the individual has been registered at some time within the period, immediately before making the application, that is prescribed for the purposes of this subsection;
- paragraph 288B(2)(a), which relevantly provides the Migration Agents Registration Authority (MARA) may, by written notice given to the applicant, require the applicant to provide information in relation to the application, that is stated in the notice, by providing to the MARA certain documents, within a period prescribed for the purposes of this paragraph (or that period as extended under subsection 288B(5)) and stated in the notice;
- paragraph 289A(1)(b), which relevantly provides that section 289A applies to an applicant whose registration application is made after the end of a period, prescribed for the purposes of this paragraph, immediately after the end of the applicant's most recent period of registration;
- paragraph 289A(2)(a), which relevantly provides that the applicant must not be registered unless the MARA is satisfied that the applicant has completed a course prescribed for the purposes of this paragraph;
- paragraph 289A(2)(a), which relevantly provides that the applicant must not be registered unless the MARA is satisfied that the applicant has passed an examination, prescribed for the purposes of this paragraph, within a prescribed period before the date of the registration application;
- subsection 290A(1), which provides that section 290A applies in relation to an applicant who has been registered at some time within the period, immediately before making the registration application, that is prescribed for the purposes of this subsection; and
- subsection 290A(2), which provides that the applicant must not be registered if the MARA is satisfied that the applicant has not met, within the period prescribed for the purposes of this subsection, the prescribed requirements for continuing professional development of registered migration agents.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020* (the amending Regulations) will make consequential amendments to the *Migration Agents Regulations 1998* (the Regulations) in order to complement the changes made by the *Migration Legislation Amendment (Regulation of Migration Agents) Act 2020* (the Regulation of Migration Agents Act), which received Royal Assent on 22 June 2020.

The Regulation of Migration Agents Act will amend the *Migration Act 1958* to remove unrestricted practising lawyers from the regulatory scheme that governs migration agents; improve the effectiveness of the scheme that regulates migration agents; and remove redundant provisions.

The amending Regulations will primarily complement the Regulation of Migration Agents Act in two ways.

First, the amending Regulations will prescribe a time period of three years for when an application will be considered an application for repeat registration. The purpose of this amendment is to provide a longer period within which applicants may be considered applicants for repeat registration, and will therefore be exempt from certain entry qualification requirements.

Previously, the Migration Act required a repeat registration application to be made within 12 months of the end of the applicant's last registration period. The changes in the Regulation of Migration Agents Act together with the amending Regulations will change the period from 12 months to 3 years for repeat registration application. This change is beneficial to applicants.

Secondly, the amending Regulations will prescribe a period of 28 days in which, if required by the Migration Agents Registration Authority (the MARA), an applicant will be required to provide information in relation to their application by providing a statutory declaration and any other specified documents to the MARA, or appearing before the MARA.

Previously, if an applicant was required to make a statutory declaration or answer questions in relation to their application, the MARA was required not to further consider the application until the applicant does so. The effect of this was that there were a number of outstanding applications that the MARA has no power to refuse because the applicant had failed to make the requisite statutory declaration or answer the requisite questions. The amendments made by the Regulation of Migration Agents Act together with the amending Regulations address this anomaly and provide the MARA with the ability to refuse incomplete applications.

Lastly, the amending Regulations will also make machinery amendments of a technical nature as a consequence to the amendments by the Regulation of Migration Agents Act and to reflect modern drafting practices.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable human rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Jason Wood MP,
Assistant Minister for Customs, Community Safety and Multicultural Affairs,
Parliamentary Secretary to the Minister for Home Affairs**

Details of the amending *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020*

Section 1 – Name

This section will provide that the title of the Regulations is the *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020* (the amending Regulations).

Section 2 – Commencement

Subsection 2(1) will provide that each provision of the amending Regulations 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.

The table under subsection 2(1) sets out the commencement for the amending Regulations.

Table item 1 will provide that sections 1 to 4 and anything in this instrument not elsewhere covered by this table commence the day after this instrument is registered.

Table item 2 will provide that Parts 1 and 2 of Schedule 1 to the amending Regulations will commence immediately after the commencement of Schedules 1 and 2 to the *Migration Amendment (Regulation of Migration Agents) Act 2020* (Regulation of Migration Agents Act).

These Parts will commence immediately after the commencement of relevant Schedules to the Regulation of Migration Agents Act because the amendments in these Parts rely upon, and make references to, those Schedules in the enabling legislation.

Table item 3 will provide that Part 3 of Schedule 1 to the amending Regulations will commence immediately after the commencement of Schedule 3 to the Regulation of Migration Agents Act.

This Part will commence immediately after the commencement of Schedule 3 to the Regulation of Migration Agents Act because the amendments in this Part relies upon, and makes references to, Schedule 3 in the enabling legislation.

Table item 4 will provide that Part 4 of Schedule 1 to the amending Regulations will commence at the same time as the provisions covered by table item 2.

Part 4 of Schedule 1 will provide for the transitional arrangements for the amendments in Parts 1 and 2 of this Schedule. As such, it will commence with the amendments in Parts 1 and 2 of Schedule 1.

A note under the table will clarify that this table relates only to the provisions of the amending Regulations as originally made. It will not be amended to deal with any later amendments of the amending Regulations.

Subsection 2(2) will provide that any information in column 3 of the table is not part of the amending Regulations. Information may be inserted in this column, or information in it may be edited, in any published version of the amending Regulations.

Section 3 – Authority

This section will provide that amending Regulations is made under the *Migration Act 1958* (the Migration Act).

Section 4 – Schedules

This section will provide that each instrument that is specified in a Schedule to the amending Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the amending Regulations will have effect according to its terms.

Schedule 1 – Amendments

Part 1 – Australian legal practitioners providing immigration assistance

Migration Agents Regulations 1998

Item [1] – Subregulation 3(1) (definition of *client*)

This item will repeal the definition of *client* in subregulation 3(1) of the *Migration Agents Regulations 1998* (the Agents Regulations).

Previously, subregulation 3(1) provides that, in Agents Regulations, *client*, of a registered migration agent, means a person to whom the agent agrees (whether or not in writing) to provide immigration assistance.

The amendment will repeal this definition so that the term ‘client’ will assume the same meaning as the definition of that term in section 306C of the Regulation of Migration Agents Act: paragraphs 13(1)(b) and (c) of the *Legislation Act 2003* refers.

The purpose of this amendment is to remove unnecessary provisions in the Agents Regulations.

Items [2] and [3] – Regulation 6A and Regulation 6A (note)

Item 2 will omit ‘lawyer who holds a current practising certificate granted under a law of a State or Territory’ and substitute ‘restricted legal practitioner’ in regulation 6A of the Agents Regulations.

Item 3 will repeal the note under regulation 6A of the Agents Regulations and substitute a new note which will provide that a restricted legal practitioner must satisfy the continuing professional development requirements of the relevant legal professional association. Under section 275 of the *Migration Act 1958* (the Migration Act), a ***restricted legal practitioner*** is defined as an Australian legal practitioner with a restricted practising certificate.

The amendments will be consequential to the amendments in the Regulation of Migration Agents Act, and reflect the removal of legal practitioners holding unrestricted practising certificates (unrestricted legal practitioners) from the migration agents regulatory scheme.

Consistent with the amendments made by Schedule 1 to the Regulation of Migration Agents Act, it is intended for legal practitioners holding restricted practising certificates to be regulated within the migration agents regulatory framework for an eligible period of 2 years (with the possibility of extending for a further 2 years if approved by the Migration Agents Regulatory Authority (MARA)) in order to facilitate their transition to becoming an unrestricted legal practitioner and minimise any hardship.

Item [4] – Subregulation 6B(1)

This item will omit “(1) Subject to subregulation (2), for” and substitute “For the purposes of” in subregulation 6B(1) of the Agents Regulations.

This will be a consequential amendment to Item 5 below.

Item [5] – Subregulation 6B(2)

This item will repeal subregulation 6B(2) from the Agents Regulations, including the note under that provision.

Previously, a person who satisfied the MARA that they have a current legal practising certificate was taken to have complied with the professional indemnity insurance requirements under regulation 6B.

The amendment will remove that provision so that all individuals, whether or not they hold a current legal practising certificate, will be required to meet the professional indemnity requirements set out in the Agents Regulations.

The purpose of this amendment is to require all restricted legal practitioners who wish to be registered as a migration agent to meet the requirements for professional indemnity insurance. This amendment recognises that, depending on the applicable State and Territory laws, some legal practitioners may not be required to hold professional indemnity insurance in order to provide legal services.

Items [6] and [7] – Regulation 9 and paragraph 9(a)

Item 6 will omit “paragraphs 316(c) and (e)” from regulation 9 and substitute “paragraph 316(1)(c)” in regulation 9 of the Agents Regulations.

Item 7 will omit “or lawyer” from paragraph 9(a) of the Agents Regulations.

These amendments will be consequential to the amendments made by Schedule 1 to the Regulation of Migration Agents Act.

Part 2 – Registration requirements

Migration Agents Regulations 1998

Items [8], [11] and [13] – Subregulation 3(1), Regulation 3AA (note) and Subregulation 3XA(1) (note)

Item 8 will omit “(1) In these Regulations:” and substitute “In these Regulations:” in subregulation 3(1) of the Agents Regulations.

Item 11 will omit “subregulation 3(1)” and substitute “regulation 3”.

Item 13 will repeal the note under subregulation 3XA(1), which previously refers the reader to subregulation 3(2) for the definition of *repeat registration*.

The amendments will be consequential to Item 10 below.

Item [9] – Subregulation 3(1)

This item will insert a new definition of *repeat registration* into subregulation 3(1) of the Agents Regulations.

The new definition of *repeat registration* will provide that an individual applies for repeat registration if the individual:

- applies for registration; and
- has previously been registered at some time within the period of 3 years before making the application.

The new definition will be substantially the same as the current definition of *repeat registration*, except the period within which an application will be considered to be an application for repeat registration will be 3 years.

The amendment will complement the policy intention of Schedule 2 to the Regulation of Migration Agents Act in allowing for a period for repeat registration applications that is longer than 12 months to be prescribed in the regulations.

Item [10] – Subregulation 3(2)

This item will repeal subregulation 3(2) from the Agents Regulations, which provides the definition of *repeat registration*.

The amendment will be consequential to Item 9 above.

Item [12] – After regulation 3X

This item will insert new regulation 3XAA after regulation 3X in the Agents Regulations.

New regulation 3XAA will be titled ‘Applications – publishing requirement’. This provision will provide that, for the purposes of subsection 288(2) of the Migration Act, the prescribed period is 3 years.

The Regulation of Migration Agents Act amends subsection 288(2) of the Migration Act to remove the reference to a 12 month period, and instead inserts a reference to a period prescribed for the purposes of the subsection.

The amendment will prescribe that period to be 3 years.

The purpose of the amendment is to ensure that applicants for repeat registration will not be required to satisfy the publishing requirements if the application for registration is made within the period of 3 years following the end of their last registration period.

Item [14] – Paragraph 3XA(2)(c)

This item will omit “begins more than 12 months” and substitute “starts earlier than 3 years” in paragraph 3XA(2)(c) of the Agents Regulations.

The amendment will be a machinery change and technical in nature. It will be consequential to Item 9 above.

Item [15] – Regulation 3Y

This item will repeal and substitute regulation 3Y of the Agents Regulations.

Subsection 288(3) of the Migration Act provides that a registration application is to be in a form approved in writing by the MARA and contain such information relevant to the application as is required by the form.

Subsection 288(4) of the Migration Act provides that the day on which a registration application is taken to have been made is the day worked out in accordance with the regulations.

Previously, regulation 3Y set out the time of registration application for the purposes of subsection 288(4) of the Migration Act. It provided that the day on which a registration application is taken to have been made was either:

- if the registration application is sent by pre-paid post – the day on which the registration application is delivered to the MARA post office box; or
- the day on which a person gives the registration application by hand to a person employed by the MARA at a MARA Office.

New regulation 3Y will be substantially the same as current regulation 3Y, but will expressly provide for the time of the registration application if the registration application is made in an approved form that is an interactive computer program. The new regulation will provide that that the day on which the application is taken to have been made is the day the completed application is received by the MARA.

A new note to new subregulation 3Y(2) will provide that for the time of receipt of a registration application sent electronically, section 14A of the *Electronic Transactions Act 1999* applies. That provision sets out the time of receipt of the electronic communication for the purposes of a law of the Commonwealth, unless otherwise agreed between the originator and the addressee of an electronic communication.

A new note to new subregulation 3Y(3) will provide that a registration application must be made in a form approved in writing by the MARA, under subsection 288(3) of the Migration Act. Under regulation 11 of the Agents Regulations, an approved form may be a paper form or an interactive computer program.

Item [16] – Regulation 5

This item will repeal regulation 5 and substitute new regulations 4A and 5 of the Agents Regulations.

Regulation 4A

Schedule 4 to the Regulation of Migration Agents Act repeals and substitutes section 288B of the Migration Act in order to allow the MARA to refuse a registration application where the applicant has been required to, but has failed to, provide information in relation to their application, such as by providing a statutory declaration and any other specified documents to the MARA or appearing before the MARA.

Paragraph 288B(2)(a) relevantly provides that the MARA may, by written notice given to the applicant, require the applicant to provide information in relation to the application, that is stated in the notice, by providing to the MARA, within a period prescribed for the purposes of paragraph 288B(2)(a) (or that period as extended under subsection 288B(5)) and stated in the notice:

- a statutory declaration; and
- any other specified documents.

New regulation 4A will provide for the purposes of paragraph 288B(2)(a) of the Migration Act, that the prescribed period is 28 days.

The purpose of this amendment is to complement the amendments in Schedule 4 to the Regulation of Migration Agents Act and prescribe a timeframe by which an applicant will be required to provide further information.

Regulation 5

Schedule 2 to the Regulation of Migration Agents Act repeals and substitutes, amongst other things, section 289A of the Migration Act, which prevents an applicant from being registered if the relevant academic and vocational requirements are not satisfied.

Subsection 289A(1) of the Migration Act sets out the applicants to whom section 289A applies.

Paragraph 289A(1)(b) provides that section 289A applies to an applicant whose registration application is made after the end of a period, prescribed for the purposes of this paragraph, immediately after the end of the applicant's most recent period of registration.

Subregulation 5(1) will provide that for the purposes of paragraph 289A(1)(b) of the Migration Act, the prescribed period is 3 years.

The effect of this amendment will be that applicants who apply more than 3 years after the end of their most recent period of registration will be required to meet the academic and vocational requirements in this regulation.

The purpose of this amendment is to complement the amendments in Schedule 2 to the Regulation of Migration Agents Act. This amendment is consistent with the intention that an

application made within 3 years of the applicant's most recent period of registration will be considered a repeat registration application, and subject to different requirements.

Subsection 289A(2) of the Migration Act provides that an applicant must not be registered unless the MARA is satisfied that the applicant meets the requirements in this subsection.

Paragraph 289A(2)(a) provides the applicant must not be registered unless the MARA is satisfied that the applicant has completed a course prescribed for the purposes of this paragraph.

Subregulation 5(2) will provide that for the purposes of paragraph 289A(2)(a) of the Migration Act, the prescribed course is a course specified under subregulation 5(4).

Paragraph 289A(2)(b) provides the applicant must not be registered unless the MARA is satisfied that the applicant has passed an examination, prescribed for the purposes of this paragraph, within a prescribed period before the date of the registration application.

Subregulation 5(3) will provide that for the purposes of paragraph 289A(2)(b) of the Migration Act:

- the prescribed examination is an examination specified under subregulation 5(4); and
- the Minister may, under subregulation 5(4), specify a minimum pass mark for the examination; and
- the prescribed period is the period specified under subregulation 5(4).

Subregulation 5(4) will provide that the Minister may, by legislative instrument, specify a matter for the purposes of subregulation 5(2) or (3).

A new note under this subregulation provides that the instrument may make different provision with respect to different matters or different classes of matters (see subsection 33(3A) of the *Acts Interpretation Act 1901*, as applied by subsection 13(1) of the *Legislation Act 2003*). For example, the instrument could specify different examinations for different classes of persons.

New regulation 5 will be substantially the same as current regulation 5, but has been simplified, in reliance on the effect of subsection 33(3A) of the *Acts Interpretation Act 1901*, as applied by subsection 13(1) of the *Legislation Act 2003*, and restructured for more flexibility. In addition, new regulation 5 will remove legal qualifications as a prescribed qualification for the purposes of meeting the academic and vocational requirements.

These amendments will complement the amendments in Schedule 2 to the Regulation of Migration Agents Act by prescribing the relevant matters. In addition, consistent with current regulation 5, subregulation 5(4) will enable the Minister to specify in a legislative instrument the relevant academic and vocational requirements which must be met by an applicant for registration.

It is intended for the Minister to be able to specify the relevant academic and vocational requirements in a legislative instrument. This sub-delegation is consistent with the sub-delegation under current regulation 5. This is authorised by subsection 504(2) of the Migration Act, which provides that section 14 of the *Legislation Act 2003* does not prevent regulations whose operation depends on a matter being specified or certified by the Minister

in an instrument in writing made under the regulations after the commencement of those regulations.

Allowing the Minister to specify the relevant academic and vocational requirements gives recognition to the fact that providers of courses, and the educational requirements themselves, can change from time to time, and avoids creating any unnecessary legislative burden by requiring a change to the Agents Regulations each time there is a course change.

Item [17] – Before subregulation 6(1)

This item inserts subregulation 6(1A) after subregulation 6(1) in the Agents Regulations.

Schedule 2 to the Regulation of Migration Agents Act repealed and substituted new section 290A of the Migration Act, which removes references to a 12 month period for meeting continuing professional development requirements and replaces it with a prescribed time period. The effect of subsection 290A(1) is that section 290A applies in relation to an applicant who has been registered at some time within the prescribed period immediately before making the registration application.

Previously, regulation 6 required a registered migration agent who made a repeat registration application to meet the continuing professional development requirements within 12 month ending on the day the application was made, unless the MARA was satisfied that the applicant did not meet a requirement because of exceptional circumstances beyond the applicant's control.

New subregulation 6(1A) will provide that, for the purposes of subsection 290A(1) of the Migration Act, the prescribed period is 3 years.

New subregulation 6(1A) will complement the amendments made by Schedule 2 to the Regulation of Migration Agents Act, and provide for a longer time period within which continuing professional requirements for a repeat registration application must be met.

As explained in the new note under subregulation 6(1A), the effect of subsection 290A(1) of the Act, combined with this subregulation, is that section 290A of the Migration Act (which relates to continuing professional development requirements) applies to applicants for repeat registration as defined in regulation 3 of the Agents Regulations.

Item [18] – Subregulation 6(1)

This item omits “section 290A” and substitutes “subsection 290A(2)” in subregulation 6(1) of the Agents Regulations.

The amendment is consequential to the amendments made by Schedule 2 to the Regulation of Migration Agents Act in changing the structure of section 290A.

Previously, subregulation 6(1) refers only to section 290A.

The effect of this amendment is that subregulation 6(1) will prescribe the period in which the applicant must meet the prescribed requirements for continuing professional development for the purposes of subsection 290A(2), as amended by Schedule 2 to the Regulation of Migration Agents Act. The amendment will make no change to the existing continuing professional development requirements prescribed in the Agents Regulations.

Part 3 – Redundant Provisions

Migration Agents Regulations 1998

Items [19]–[27] – Paragraph 3V(e), Subregulation 7(1), Subregulation 7B(1), Regulations 7C and 7D, Subregulation 7E(1), Paragraph 9(c), Regulation 9 (note 1), Regulation 9 (note 2), Clause 2.17 of Schedule 2 (note)

These items repeal or remove redundant references and provisions from the Agents Regulations.

The amendments will complement the amendments made by Schedule 3 to the Regulation of Migration Agents Act, and repeal redundant provisions which are no longer necessary. Schedule 3 to the Regulation of Migration Agents Act makes amendments to the Migration Act to reflect the consolidation of the Office of the MARA into the Department of Immigration and Border Protection (now the Department of Home Affairs) on 1 July 2015, and to repeal provisions that mention the Migration Institute of Australia as the body that carries out the functions of the MARA.

Part 4 – Transitional

Migration Agents Regulations 1998

Item [28] – In the appropriate position in Part 5

This item inserts a new Division 6 titled “Amendments made by the Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020” into Part 5 of the Agents Regulations.

New regulation 24 provides for the definition of ***amending Regulations*** in new Division 6 to mean the *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020*.

New regulation 25 provides that the amendments of the Agents Regulations made by Part 2 of Schedule 1 to the amending Regulations apply in relation to a registration application made on or after the commencement of that Part.

Collectively, regulations 24 and 25 will make clear that the amendments to the registration requirements made by Part 2 of Schedule 1 of the amending Regulations will apply prospectively to new registration applications made on or after those amendments commence.