



Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 August 2020

David Hurley
Governor-General

By His Excellency's Command

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

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
Part 1—Australian legal practitioners providing immigration assistance		2
<i>Migration Agents Regulations 1998</i>		2
Part 2—Registration requirements		3
<i>Migration Agents Regulations 1998</i>		3
Part 3—Redundant provisions		5
<i>Migration Agents Regulations 1998</i>		5
Part 4—Transitional		6
<i>Migration Agents Regulations 1998</i>		6

1 Name

This instrument is the *Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020*.

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 August 2020
2. Schedule 1, Parts 1 and 2	Immediately after the commencement of Schedules 1 and 2 to the <i>Migration Amendment (Regulation of Migration Agents) Act 2020</i> .	22 March 2021
3. Schedule 1, Part 3	Immediately after the commencement of Schedule 3 to the <i>Migration Amendment (Regulation of Migration Agents) Act 2020</i> .	11 August 2020
4. Schedule 1, Part 4	At the same time as the provisions covered by table item 2.	22 March 2021

Note: This table relates only to the provisions of this instrument as originally made.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.

- (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—Australian legal practitioners providing immigration assistance

Migration Agents Regulations 1998

1 Subregulation 3(1) (definition of *client*)

Repeal the definition.

2 Regulation 6A

Omit “lawyer who holds a current practising certificate granted under a law of a State or Territory”, substitute “restricted legal practitioner”.

3 Regulation 6A (note)

Repeal the note, substitute:

Note: A restricted legal practitioner must satisfy the continuing professional development requirements of the relevant legal professional association. Under section 275 of the Act, a *restricted legal practitioner* is defined as an Australian legal practitioner with a restricted practising certificate.

4 Subregulation 6B(1)

Omit “(1) Subject to subregulation (2), for”, substitute “For the purposes of”.

5 Subregulation 6B(2)

Repeal the subregulation (including the note).

6 Regulation 9

Omit “paragraphs 316(c) and (e)”, substitute “paragraph 316(1)(c)”.

7 Paragraph 9(a)

Omit “or lawyer”.

Part 2—Registration requirements

Migration Agents Regulations 1998

8 Subregulation 3(1)

Omit “(1) In these Regulations:”, substitute “In these Regulations:”.

9 Subregulation 3(1)

Insert:

repeat registration: an individual applies for ***repeat registration*** if the individual:

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

10 Subregulation 3(2)

Repeal the subregulation.

11 Regulation 3AA (note)

Omit “subregulation 3(1)”, substitute “regulation 3”.

12 After regulation 3X

Insert:

3XAA Applications—publishing requirement

For the purposes of subsection 288(2) of the Act, the prescribed period is 3 years.

13 Subregulation 3XA(1) (note)

Repeal the note.

14 Paragraph 3XA(2)(c)

Omit “begins more than 12 months”, substitute “starts earlier than 3 years”.

15 Regulation 3Y

Repeal the regulation, substitute:

3Y Time of registration application

- (1) This regulation is made for the purposes of subsection 288(4) of the Act
- (2) If a registration application is made in an approved form that is an interactive computer program, the day on which the application is taken to have been made is the day the completed application is received by the Authority.

Note: For the time of receipt of an electronic communication, see section 14A of the *Electronic Transactions Act 1999*.
- (3) If a registration application is made in an approved form that is a paper form, the day on which the application is taken to have been made is either:

- (a) if the application is sent by pre-paid post—the day on which the application is delivered to the Authority’s post office box; or
- (b) the day on which a person gives the application by hand to a person employed by the Authority at an Authority office.

Note: A registration application must be made in a form approved in writing by the Authority (see subsection 288(3) of the Act). Under regulation 11, an approved form may be a paper form or an interactive computer program.

16 Regulation 5

Repeal the regulation, substitute:

4A Requirement to provide further information

For the purposes of paragraph 288B(2)(a) of the Act, the prescribed period is 28 days.

5 Prescribed qualifications

- (1) For the purposes of paragraph 289A(1)(b) of the Act, the prescribed period is 3 years.
- (2) For the purposes of paragraph 289A(2)(a) of the Act, the prescribed course is a course specified under subregulation (4).
- (3) For the purposes of paragraph 289A(2)(b) of the Act:
 - (a) the prescribed examination is an examination specified under subregulation (4); and
 - (b) the Minister may, under that subregulation, specify a minimum pass mark for the examination; and
 - (c) the prescribed period is the period specified under that subregulation.
- (4) The Minister may, by legislative instrument, specify a matter for the purposes of subregulation (2) or (3).

Note: 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.

17 Before subregulation 6(1)

Insert:

- (1A) For the purposes of subsection 290A(1) of the Act, the prescribed period is 3 years.

Note: The effect of subsection 290A(1) of the Act, combined with this subregulation, is that section 290A of the Act (which relates to continuing professional development requirements) applies to applicants for repeat registration as defined in regulation 3 of this instrument.

18 Subregulation 6(1)

Omit “section 290A”, substitute “subsection 290A(2)”.

Part 3—Redundant provisions

Migration Agents Regulations 1998

19 Paragraph 3V(e)

Omit “, 306AG or 306AGAC”.

20 Subregulation 7(1)

Omit “paragraphs 305A(1)(a) and 306AL(1)(a)”, substitute “paragraph 305A(1)(a)”.

21 Subregulation 7B(1)

Omit “sections 306AA and 306AK”, substitute “section 306AA”.

22 Regulations 7C and 7D

Repeal the regulations.

23 Subregulation 7E(1)

Omit “paragraphs 311C(1)(a) and 311P(1)(a)”, substitute “paragraph 311C(1)(a)”.

24 Paragraph 9(c)

Repeal the paragraph.

25 Regulation 9 (note 1)

Repeal the note.

26 Regulation 9 (note 2)

Omit “Note 2”, substitute “Note”.

27 Clause 2.17 of Schedule 2 (note)

Repeal the note.

Part 4—Transitional

Migration Agents Regulations 1998

28 In the appropriate position in Part 5

Insert:

Division 6—Amendments made by the Migration Agents Amendment (Regulation of Migration Agents) Regulations 2020

24 Definitions

In this Division:

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

25 Operation of amendments relating to registration of migration agents— general

The amendments of these 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.