



Migration Amendment (Temporary Graduate Visas) 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 10 December 2020

David Hurley
Governor-General

By His Excellency's Command

Alan Tudge
Minister for Population, Cities and Urban Infrastructure
for the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Temporary Graduate Visas) 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.	19 December 2020
2. Schedule 1	20 January 2021.	20 January 2021
3. Schedule 2	The day after this instrument is registered.	19 December 2020

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Regional concessions for temporary graduate visa holders

Migration Regulations 1994

1 Regulation 1.03

Insert:

designated city or major regional centre has the meaning given by subregulation 1.15M(1).

2 Regulation 1.03 (definition of *designated regional area*)

Repeal the definition, substitute:

designated regional area means:

- (a) a designated city or major regional centre; or
- (b) a regional centre or other regional area.

3 Regulation 1.03

Insert:

regional centre or other regional area has the meaning given by subregulation 1.15M(2).

4 Regulation 1.15M

Repeal the regulation, substitute:

1.15M Designated regional areas

- (1) The Minister may, by legislative instrument, specify a part of Australia to be a *designated city or major regional centre*.
- (2) The Minister may, by legislative instrument, specify a part of Australia to be a *regional centre or other regional area*.

5 Subregulation 2.72C(6) (note)

Repeal the note, substitute:

Note: A designated regional area is a part of Australia specified in an instrument under regulation 1.15M.

6 Paragraph 1229(2)(a) of Schedule 1

Repeal the paragraph (not including the note), substitute:

- (a) first instalment (payable at the time the application is made):
 - (i) for an applicant:
 - (A) who is the holder of a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream and who is applying for a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream; or

- (B) whose application is combined, or sought to be combined, with an application made by the applicant to whom sub-subparagraph (A) applies:

First instalment		
Item	Component	Amount
1	Base application charge	\$650
2	Additional applicant charge for an applicant who is at least 18	\$325
3	Additional applicant charge for an applicant who is less than 18	\$165

- (ii) for any other applicant:

First instalment		
Item	Component	Amount
1	Base application charge	\$1 650
2	Additional applicant charge for an applicant who is at least 18	\$825
3	Additional applicant charge for an applicant who is less than 18	\$415

7 Paragraphs 1229(3)(f) and (g) of Schedule 1

Repeal the paragraphs, substitute:

- (f) The following applicants may be in or outside Australia when making their applications, but not in immigration clearance:
- (i) an applicant claiming to be a member of the family unit of a person who, having satisfied the primary criteria, holds a Skilled (Provisional) (Class VC) visa;
 - (ii) an applicant:
 - (A) who makes the application during a concession period; and
 - (B) who is not applying for a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or a Subclass 485 visa as a member of the family unit of an applicant for a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream.
- (g) An applicant to whom paragraph (f) does not apply must be in Australia, but not in immigration clearance, when making his or her application.

8 After paragraph 1229(3)(l) of Schedule 1

Insert:

- (la) An applicant seeking to satisfy the primary criteria for the grant of a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream must hold a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream.

9 At the end of paragraph 1229(4)(a) of Schedule 1

Add:

- (v) the applicant holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream and is applying for a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream;

10 Paragraph 485.211(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) has not previously held a Subclass 485 (Temporary Graduate) visa in the Graduate Work stream; and
- (c) unless the applicant has nominated the Post-Study Work stream in the application and meets the requirements of clause 485.232 or 485.233—has not previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream; and
- (d) has not previously held 2 Subclass 485 (Temporary Graduate) visas in the Post-Study Work stream.

11 Clause 485.212 of Schedule 2

Before “The”, insert “(1)”.

12 At the end of clause 485.212 of Schedule 2

Add:

- (2) Subclause (1) does not apply to an applicant who meets the requirements of clause 485.232 or 485.233.

13 Clause 485.213 of Schedule 2

Before “When”, insert “(1)”.

14 At the end of clause 485.213 of Schedule 2

Add:

- (2) Subclause (1) does not apply to an applicant who meets the requirements of clause 485.232 or 485.233.

15 Before subclause 485.231(1) of Schedule 2

Insert:

- (1A) This clause does not apply to an applicant who meets the requirements of clause 485.232 or 485.233.

16 At the end of Subdivision 485.23 of Schedule 2

Add:

485.232

- (1) This clause applies to an applicant for a visa (the *second visa*) who:
 - (a) held a Subclass 485 (Temporary Graduate) visa (the *first visa*) in the Post-Study Work stream when the application for the second visa was made; and
 - (b) was granted the first visa on the basis of study undertaken in a regional centre or other regional area at an educational institution located in the regional centre or other regional area; and
 - (c) declared in the application for the second visa that the applicant, and any member (the *family member*) of the applicant’s family unit who made a combined application with the applicant, intend:
 - (i) to live only in a regional centre or other regional area; and

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- (ii) if the applicant or the family member also intends to work or study—to work or study only in a regional centre or other regional area.
- (2) The applicant must have:
- (a) lived only in a regional centre or other regional area while undertaking the study mentioned in paragraph (1)(b); and
 - (b) lived only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the second visa; and
 - (c) if the applicant also worked or studied—worked or studied only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the second visa.
- (3) At the time of the decision on the application for the second visa:
- (a) the applicant lives only in a regional centre or other regional area; and
 - (b) if the applicant also works or studies at that time—the applicant works or studies only in a regional centre or other regional area.

485.233

- (1) This clause applies to an applicant for a visa (the *second visa*):
- (a) who held a Subclass 485 (Temporary Graduate) visa (the *first visa*) in the Post-Study Work stream when the application for the second visa was made; and
 - (b) who was granted the first visa on the basis of study undertaken in a designated regional area at an educational institution located in the designated regional area; and
 - (c) to whom clause 485.232 does not apply.
- (2) The applicant must have:
- (a) lived only in a designated regional area while undertaking the study mentioned in paragraph (1)(b); and
 - (b) lived only in a designated regional area for a period of at least 2 years immediately before applying for the second visa; and
 - (c) if the applicant also worked or studied—worked or studied only in a designated regional area for a period of at least 2 years immediately before applying for the second visa.
- (3) At the time of the decision on the application for the second visa:
- (a) the applicant lives only in a designated regional area; and
 - (b) if the applicant also works or studies at that time—the applicant works or studies only in a designated regional area.
- (4) The applicant declared in the application for the second visa that the applicant, and any member (the *family member*) of the applicant's family unit who made a combined application with the applicant, intend:
- (a) to live only in a designated regional area; and
 - (b) if the applicant or the family member also works or studies (or proposes to work or study)—to work or study only in a designated regional area.

17 Clause 485.511 of Schedule 2

Repeal the clause, substitute:

485.511

If the applicant is granted a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream (the *second visa*) on the basis of meeting the requirements in clause 485.232, temporary visa permitting the holder to travel to, enter and remain in Australia until the later of:

- (a) the end of 2 years from the date of grant of the second visa; and
- (b) the end of 2 years from the date the first such visa granted to the applicant would have otherwise ceased to be in effect.

485.512

If the applicant is granted a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream (the *second visa*) on the basis of meeting the requirements in clause 485.233, temporary visa permitting the holder to travel to, enter and remain in Australia until the later of:

- (a) the end of one year from the date of grant of the second visa; and
- (b) the end of one year from the date the first such visa granted to the applicant would have otherwise ceased to be in effect.

485.513

If clause 485.511 or 485.512 does not apply, temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

18 At the end of Division 485.6 of Schedule 2

Add:

485.613

- (1) If the applicant is granted a second Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream on the basis of meeting the requirements in clause 485.232 or clause 485.233, condition 8610 must be imposed.
- (2) If the applicant is granted a Subclass 485 (Temporary Graduate) visa on the basis of satisfying the secondary criteria in relation to a primary applicant mentioned in subclause (1), condition 8610 must be imposed.

19 At the end of Schedule 8

Add:

- 8610
- (1) If the visa is a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.232, the holder, while in Australia, must live, work and study only in a part of Australia that was a regional centre or other regional area at the time the visa was granted.
 - (2) If the visa is a Subclass 485 (Temporary Graduate) visa granted on the basis of satisfying the secondary criteria in relation to a primary applicant mentioned in subclause (1), the holder, while in Australia, must live, work and study only in a part of Australia that was a regional centre or other regional area at the time the visa was granted.

- (3) If the visa is a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.233, the holder, while in Australia, must live, work and study only in a part of Australia that was a designated regional area at the time the visa was granted.
- (4) If the visa is a Subclass 485 (Temporary Graduate) visa granted on the basis of satisfying the secondary criteria in relation to a primary applicant mentioned in subclause (3), the holder, while in Australia, must live, work and study only in a part of Australia that was a designated regional area at the time the visa was granted.

20 At the end of Part 93 of Schedule 13

Add:

9302 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Temporary Graduate Visas) Regulations 2020* apply in relation to visa applications made on or after the commencement of that Schedule.

9303 Living, working and studying in a regional centre or other regional area

- (1) This clause applies if, at the commencement of Schedule 1 to the *Migration Amendment (Temporary Graduate Visas) Regulations 2020*, a place is a regional centre or other regional area.
- (2) For the purposes of clause 485.232 of Schedule 2 to these Regulations, the place is taken to have been a regional centre or other regional area at all times before that commencement.

9304 Living, working and studying in a designated regional area

- (1) This clause applies if, at a time occurring before the commencement of Schedule 1 to the *Migration Amendment (Temporary Graduate Visas) Regulations 2020*, a place was a designated regional area within the meaning of these Regulations as in force at that time.
- (2) For the purposes of clause 485.233 of Schedule 2 to these Regulations, the place is taken to have been a designated regional area within the meaning of these Regulations as amended by Schedule 1 to the *Migration Amendment (Temporary Graduate Visas) Regulations 2020*, at that time.

Schedule 2—Applications for temporary graduate visas when applicant is outside Australia

Migration Regulations 1994

1 Paragraph 1229(4)(a) of Schedule 1

Omit “if the applicant is in Australia when making the application,”.

2 After subparagraph 1229(4)(a)(i) of Schedule 1

Insert:

- (ia) the applicant is outside Australia when the application is made and the applicant has held an eligible student visa;

3 In the appropriate position in Schedule 13

Insert:

Part 93—Amendments made by the Migration Amendment (Temporary Graduate Visas) Regulations 2020

9301 Operation of Schedule 2

The amendments of these Regulations made by Schedule 2 to the *Migration Amendment (Temporary Graduate Visas) Regulations 2020* apply in relation to visa applications made on or after the commencement of that Schedule.