



# **Migration Amendment (Australian Agriculture Workers) Regulations 2021**

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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 30 September 2021

David Hurley  
Governor-General

By His Excellency's Command

Alex Hawke  
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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## 1 Name

This instrument is the *Migration Amendment (Australian Agriculture Workers) Regulations 2021*.

## 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. The whole of this instrument	Immediately after this instrument is registered.	2.38 pm (A.C.T.) 30 September 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Migration Regulations 1994*

#### **1 After paragraph 2.56(baa)**

Insert:

- (bab) the Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream;

#### **2 Paragraph 1234(3)(b) of Schedule 1**

Omit “and (caa)”, substitute “, (caa) and (cac)”.

#### **3 After paragraph 1234(3)(cab) of Schedule 1**

Insert:

(cac) If:

- (i) an applicant is seeking to satisfy the criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream; and
- (ii) the applicant does not hold a Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream when the application is made; and
- (iii) if the last substantive visa held by the applicant was a Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream—that visa expired more than 28 days before the application is made;

the applicant must be outside Australia.

- (cad) If an applicant is seeking to satisfy the primary criteria for a Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream, the applicant must meet the requirement in subitem (3D).

#### **4 Subitem 1234(3) of Schedule 1 (note)**

After “the Pacific Labour Scheme stream”, insert “, the Australian Agriculture Worker stream”.

#### **5 After subitem 1234(3C) of Schedule 1**

Insert:

- (3D) For the purposes of paragraph (3)(cad), an applicant meets the requirement in this subitem if:
  - (a) the applicant is participating, as a worker, in the Australian Agriculture Worker Program administered by Foreign Affairs; and
  - (b) the applicant specifies in the application a person who has agreed to be the applicant’s sponsor in relation to the application and the person is:
    - (i) a temporary activities sponsor or a person who has applied for approval as a temporary activities sponsor but whose application has not yet been decided; and
    - (ii) participating, as an employer, in the Australian Agriculture Worker Program administered by Foreign Affairs.

**6 Clause 403.111 of Schedule 2 (note)**

After “For”, insert “*Foreign Affairs* and”.

**7 Division 403.2 of Schedule 2 (note to the heading)**

Omit “403.27” (wherever occurring), substitute “403.28”.

**8 At the end of Division 403.2 of Schedule 2**

Add:

**403.28—Criteria for the Australian Agriculture Worker stream**

Note: These criteria are only for applicants being assessed against the primary criteria for a Subclass 403 visa in the Australian Agriculture Worker stream.

**403.281**

Each of the following applies:

- (a) the applicant is participating, as a worker, in the Australian Agriculture Worker Program administered by Foreign Affairs;
- (b) an approved sponsor has agreed to be the sponsor of the applicant and the sponsor is:
  - (i) a temporary activities sponsor; and
  - (ii) participating, as an employer, in the Australian Agriculture Worker Program administered by Foreign Affairs;
- (c) the sponsor has not withdrawn the sponsor’s agreement to be the sponsor of the applicant;
- (d) the sponsor has not ceased to be the sponsor of the applicant;
- (e) either:
  - (i) there is no adverse information known to Immigration about the sponsor or a person associated with the sponsor; or
  - (ii) it is reasonable to disregard any adverse information known to Immigration about the sponsor or a person associated with the sponsor;
- (f) the applicant:
  - (i) is seeking to enter Australia for the purposes of the Australian Agriculture Worker Program; or
  - (ii) is in Australia and holds, or the last substantive visa held by the applicant was, a Subclass 403 visa in the Australian Agriculture Worker stream;
- (g) the applicant satisfies public interest criteria 4005 and 4019.

**9 After subclause 403.411(2A) of Schedule 2**

Insert:

- (2B) An applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Australian Agriculture Worker stream:
  - (a) if the applicant holds, or the last substantive visa held by the applicant was, a Subclass 403 (Temporary Work (International Relations)) visa in the Australian Agriculture Worker stream—may be in or outside Australia, but not in immigration clearance, when the visa is granted; or
  - (b) otherwise—must be outside Australia when the visa is granted.

**10 Subclause 403.411(3) of Schedule 2**

Omit “or (2A)”, substitute “, (2A) or (2B)”.

**11 At the end of Division 403.6 of Schedule 2**

Add:

**403.616**

- (1) This clause applies to an applicant who satisfies the primary criteria for the grant of a Subclass 403 visa in the Australian Agriculture Worker stream.
- (2) The visa is subject to:
  - (a) conditions 8303, 8501 and 8611; and
  - (b) if specified by the Minister—one of the following conditions:
    - (i) condition 8575;
    - (ii) condition 8576.
- (3) Conditions 8301, 8502, 8503, 8516, 8525 and 8578 may be imposed.

**12 At the end of Schedule 8**

Add:

- 8611 If the visa is a Subclass 403 visa in the Australian Agriculture Worker stream, the holder:
- (a) must not work other than:
    - (i) for the holder’s sponsor in relation to the visa; or
    - (ii) for another person in accordance with an arrangement endorsed by Foreign Affairs; and
  - (b) must not engage in work on the holder’s own account.