



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

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**[Note: Regulation 2.12A ceased to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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Schedule 2 Provisions with respect to the grant of Subclasses of visas

Subclass 802 Child

802.1 Interpretation

In this Part:

letter of support means a letter of support provided by a State or Territory government welfare authority that:

- (a) supports a child's application for permanent residency in Australia; and
- (b) sets out:
 - (i) the circumstances leading to the involvement of a State or Territory government welfare authority in the welfare of the child; and
 - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
- (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
- (d) shows the letterhead of the State or Territory government welfare authority; and
- (e) is signed by a manager or director employed by the State or Territory government welfare authority.

Note ***eligible New Zealand citizen*** is defined in regulation 1.03.

802.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.21 Criteria to be satisfied at time of application

802.211 If:

- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or
- (b) the applicant is a person to whom section 48 of the Act applies;
the applicant:
 - (c) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
 - (d) has become a dependent child of:
 - (i) an Australian citizen; or
 - (ii) the holder of a permanent visa; or
 - (iii) an eligible New Zealand citizen;since last applying for an entry permit or substantive visa.

802.212 (1) The applicant:

- (a) is a dependent child of a person who is an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
- (b) subject to subclause (2), has not turned 25.

(1A) If the applicant is a step-child of the person mentioned in paragraph (1) (a), the applicant is a step-child within the meaning of paragraph (b) of the definition of *step-child*.

(2) Paragraph (1) (b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

- 802.213 (1) If the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 802.212 (1) is an adoptive parent of the applicant, the applicant:
- (a) was under 18 when the adoption took place; and
 - (b) meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant meets the requirements of this subclause if the adoption of the applicant was in accordance with the Adoption Convention and an adoption compliance certificate is in force in relation to the adoption.
- (3) The applicant meets the requirements of this subclause if the adoptive parent was not an Australian citizen, holder of a permanent visa or New Zealand citizen when the adoption took place, but subsequently became an Australian citizen, holder of a permanent visa or New Zealand citizen.
- (4) The applicant meets the requirements of this subclause if:
- (a) the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
 - (b) before the adoption, a competent authority in Australia approved the adoptive parent as a suitable adoptive parent, or the adoptive parent and the adoptive parent's spouse or de facto partner as suitable adoptive parents, for the applicant.
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant was adopted in an overseas country and the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or New Zealand citizen; and
 - (b) either:
 - (i) when the adoption took place, the adoptive parent had been residing overseas for more than 12 months; or

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- (ii) the Minister is satisfied that, because of compelling or compassionate circumstances, subparagraph (i) should not apply to the applicant; and
- (c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and
- (d) the adoptive parent has, or the adoptive parent and the adoptive parent's spouse or de facto partner have, lawfully acquired full and permanent parental rights by the adoption.
- 802.214 (1) If the applicant has turned 18:
- (a) the applicant:
- (i) is not engaged to be married; and
- (ii) does not have a spouse or de facto partner; and
- (iii) has never had a spouse or de facto partner; and
- (b) the applicant is not engaged in full-time work; and
- (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.
- (2) Paragraph (1) (c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.
- 802.215 The applicant is:
- (a) a person whose application is supported by a letter of support from a State or Territory government welfare authority; or
- (b) sponsored by a person who:
- (i) has turned 18; and
- (ii) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(iii) is:

- (A) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212 (1) (a); or
- (B) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212 (1) (a).

802.216 Clauses 802.211 to 802.214 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

802.22 Criteria to be satisfied at time of decision

802.221 (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:

- (a) continues to satisfy the criterion in clause 802.212; or
- (b) does not continue to satisfy that criterion only because the applicant has turned 18.

(2) In the case of an applicant who had turned 18 at the time of application:

- (a) the applicant:
 - (i) continues to satisfy the criterion in clause 802.212; or
 - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
- (b) the applicant continues to satisfy the criterion in clause 802.214.

802.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

802.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and

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- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 802.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 802 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 802 visa is a person who satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 802.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 802.226 The sponsorship mentioned in clause 802.215 has been approved by the Minister and is still in force.
- Note* Regulation 1.20KB limits the Minister's discretion to approve sponsorships.
- 802.226A (1) Clauses 802.221 to 802.226 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- (2) If the application for a visa is supported by a letter of support from a State or Territory government welfare authority:
- (a) the applicant satisfies:
- (i) the criteria in subclauses (3), (4), (5) and (6); and
- (ii) public interest criteria 4001, 4002, 4003 and 4018; and
- (b) the Minister is satisfied that:
- (i) the grant of visa is in the public interest; and
- (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.

(3) The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

(4) The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

(5) A relevant medical practitioner:

- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (3); and
 - (ii) the radiological report (if any) required under subclause (4) in respect of the applicant; and

- (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

(6) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

802.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

802.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.31 Criteria to be satisfied at time of application

802.311 Each of the following is satisfied:

- (a) the applicant is a member of the family unit of a person to whom paragraph 802.215 (b) applies;

- (b) the applicant is a member of the family unit of a person who:
 - (i) has applied for a Child (Residence) (Class BT) visa; and
 - (ii) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 802.21;
 - (c) the Minister has not decided to grant or refuse to grant the visa to that other person.
- 802.312 The sponsorship mentioned in clause 802.215 of the person who satisfies the primary criteria includes sponsorship of the applicant.
- 802.32 Criteria to be satisfied at time of decision**
- 802.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 802 visa.
- 802.322 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 802.323 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
 - (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 802.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 802.325 The sponsorship mentioned in clause 802.312 has been approved by the Minister and is still in force.

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- 802.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 802.327 Clauses 802.321 to 802.325 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- 802.328 (1) If the applicant's application for a visa is supported by a letter of support from a State or Territory government welfare authority and the applicant is an applicant to whom regulation 2.08 applies:
- (a) the applicant must:
 - (i) be a member of the family unit of a person to whom paragraph 802.215 (a) applies; and
 - (ii) satisfy subclauses (2), (3), (4) and (5); and
 - (iii) satisfy public interest criteria 4018; and
 - (b) the Minister must be satisfied that:
 - (i) the grant of visa is in the public interest; and
 - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (2) The applicant has undergone a medical examination carried out by any of the following (a ***relevant medical practitioner***):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

- (3) The applicant:
 - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- (4) A relevant medical practitioner:
 - (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (2); and
 - (ii) the radiological report (if any) required under subclause (3) in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- (5) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in

Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

802.4 Circumstances applicable to grant

802.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

802.5 When visa is in effect

802.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

802.6 Conditions: Nil.

802.7 Way of giving evidence

802.711 No evidence need be given.

802.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 804 Aged Parent

804.1 Interpretation

804.111 In this Part:

adult child, in relation to an applicant, means a child of the applicant who has turned 18.

Note *aged parent* and *eligible New Zealand citizen* are defined in regulation 1.03.

804.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

804.21 Criteria to be satisfied at time of application

- 804.211 (1) If:
- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or
 - (b) the applicant is a person to whom section 48 of the Act applies;
the applicant:
 - (c) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
 - (d) has become an aged parent of an Australian citizen, of an Australian permanent resident or of an eligible New Zealand citizen since last applying for an entry permit or substantive visa.
- (2) The applicant is:
- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa.
- 804.212 (1) The applicant is:
- (a) in the case of an applicant who is not the holder of a substituted Subclass 676 visa:
 - (i) the aged parent of a person (the *child*) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
 - (ii) sponsored in accordance with subclause (2) or (3);
or

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- (b) in the case of an applicant who is the holder of a substituted Subclass 676 visa:
 - (i) the parent of a person (the *child*) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
 - (ii) sponsored in accordance with subclause (2) or (3).
 - (2) If the child has turned 18, the applicant is sponsored by:
 - (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen.
 - (3) If the child has not turned 18, the applicant is sponsored by:
 - (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, or settled Australian permanent resident, or settled eligible New Zealand citizen; or
 - (d) a community organisation.

- 804.213 If the applicant is not the holder of a substantive visa, the applicant satisfies Schedule 3 criterion 3002.
- 804.214 If the applicant is not the holder of a substituted Subclass 676 visa, the applicant satisfies the balance of family test.

804.22 Criteria to be satisfied at time of decision

- 804.221 The applicant either:
- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212 (1) (a); or
 - (b) if the applicant is the holder of a substituted Subclass 676 visa at the time of application — is the parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212 (1) (a).
- 804.222 A sponsorship of the kind mentioned in clause 804.212 is in force, whether or not the sponsor was the sponsor at the time of application.
- Note* The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 804.212.
- 804.224 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 804.225 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019
2	the holder of a substituted Subclass 676 visa at the time of application	4001, 4002, 4003, 4007, 4009, 4010 and 4019

804.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

804.227 If a person (in this clause called the ***additional applicant***):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 804.228 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

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- 804.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

804.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

804.31 Criteria to be satisfied at time of application

- 804.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Aged Parent (Residence) (Class BP) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 804.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 804.312 A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

804.32 Criteria to be satisfied at time of decision

- 804.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 804 visa.

804.322 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 804.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

804.323 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

804.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

804.325 A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.

804.326 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:

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- (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

804.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

804.4 Circumstances applicable to grant

804.411 The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

804.5 When visa is in effect

804.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

804.6 Conditions: Nil.

804.7 Way of giving evidence

804.711 No evidence need be given.

804.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 808 Confirmatory (Residence)

808.1 Interpretation

Note No interpretation provisions specific to this Part.

808.2 Primary criteria

Note All applicants must satisfy the primary criteria.

808.21 Criteria to be satisfied at time of application

808.211 The applicant:

- (a) is the holder of a Resident Return (Temporary) (Class TP) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa at the time he or she was granted the Resident Return (Temporary) (Class TP) visa; or

-
- (b) is a person who is the holder of an Emergency (Temporary) (Class TI) visa and:
- (i) either:
 - (A) satisfies the remaining criteria, within the meaning of Part 302; or
 - (B) is unable to satisfy those criteria, but is able to substantiate a claim to be an Australian permanent resident; or
 - (ii) is a member of the family unit of a person who:
 - (A) is the holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa; and
 - (B) has satisfied the primary criteria; or
- (c) is the holder of a Border (Temporary) (Class TA) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa when he or she was granted the Border (Temporary) (Class TA) visa; or
- (d) is the holder of a Class 301 (Australian requirement) entry permit or visa granted under the Migration (1993) Regulations and has satisfied the criteria referred to in paragraph 301.321 (b) of Schedule 2 of those Regulations.
- 808.212 In the case of an applicant who is the holder of a Subclass 302 visa, all members of the family unit of the applicant satisfy the public interest criteria applicable to them.
- 808.22 Criteria to be satisfied at time of decision**
- 808.221 In the case of an applicant who is a member of the family unit of a person referred to in subparagraph 808.211 (b) (ii), the person referred to in that subparagraph holds a Confirmatory (Residence) (Class AK) visa.
- 808.222 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

808.3 Secondary criteria: Nil.

Note All applicants must meet the primary criteria.

808.4 Circumstances applicable to grant

- 808.411 The applicant must be inside Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge (if any), must be paid before the visa can be granted.

808.5 When visa is in effect

- 808.511 Visa granted on basis of satisfaction of paragraph 808.211 (a) or (c): permanent visa.
- 808.512 Visa granted on basis of satisfaction of paragraph 808.211 (b) or (d): permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

808.6 Conditions: Nil.

808.7 Way of giving evidence

- 808.711 No evidence need be given.
- 808.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 820 Partner

820.1 Interpretation

- 820.111 In this Part:

court means a Court of Australia or an external Territory.

original sponsor means the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was

specified in the application for a prospective marriage (temporary) visa as the person whom the applicant intended to marry after entry into Australia.

prospective marriage (temporary) visa means:

- (a) a Prospective Marriage (Temporary) (Class TO) visa; or
- (b) a Class 300 (prospective marriage) visa or entry permit within the meaning of the Migration (1993) Regulations; or
- (c) a prospective marriage visa (code number 300), or equivalent entry permit, within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (temporary) visa, within the meaning of the Migration Reform (Transitional Provisions) Regulations, being:
 - (i) such a visa granted on the basis of an application for a visa or entry permit of a kind specified in paragraph (b) or (c); or
 - (ii) a visa or entry permit of such a kind having effect under those Regulations as a transitional (temporary) visa.

sponsoring partner means:

- (a) in subclauses 820.211 (2) and (2B) and clause 820.221:
 - (i) for an applicant who is, or was, the holder of a prospective marriage (temporary) visa:
 - (A) the original sponsor for the applicant; or
 - (B) the subsequent sponsor for the applicant; or
 - (ii) for any other applicant — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant; and
- (b) in any other provision of this Part:
 - (i) for an applicant who is, or was, the holder of a prospective marriage (temporary) visa — the original sponsor for the applicant; or

- (ii) for any other applicant — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant.

subsequent sponsor means a person who:

- (a) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
- (b) is not the original sponsor for the applicant; and
- (c) is the spouse or de facto partner of the applicant.

woman-at-risk visa means:

- (a) a Subclass 204 (Woman at Risk) visa; or
- (b) a Class 204 (woman at risk) visa within the meaning of the Migration (1993) Regulations; or
- (c) a woman at risk visa (code number 204) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

Note ***eligible New Zealand citizen***, ***SOFA forces civilian component member*** and ***SOFA forces member*** are defined in regulation 1.03. For ***de facto partner***, see section 5CB of the Act (also see regulation 1.09A). For ***spouse***, see section 5F of the Act (also see regulation 1.15A).

820.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

820.21 Criteria to be satisfied at time of application

- 820.211 (1) The applicant:
- (a) is not the holder of a Subclass 771 (Transit) visa; and
 - (b) meets the requirements of subclause (2), (3), (4), (5), (6), (7), (8) or (9).

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- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of a person who:
 - (i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) is not prohibited by subclause (2B) from being a sponsoring partner; and
 - (c) the applicant is sponsored:
 - (i) if the applicant's spouse or de facto partner has turned 18 — by the spouse or de facto partner; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (d) in the case of an applicant who is not the holder of a substantive visa — either:
 - (i) the applicant:
 - (A) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause (2A); and
 - (B) satisfies Schedule 3 criterion 3002; or
 - (ii) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.
- (2A) An applicant meets the requirements of this subclause if:
- (a) the applicant is:
 - (i) a SOFA member; or
 - (ii) a SOFA forces civilian component member; or
 - (b) the applicant:
 - (i) is a dependent child of a person referred to in paragraph (a); and

- (ii) holds a valid national passport and certificate that he or she is a dependant of a SOFA forces member or a SOFA forces civilian component member, as the case requires.
- (2B) The spouse or de facto partner of the applicant is prohibited from being a sponsoring partner if:
 - (a) the spouse or de facto partner is a woman who was granted a woman-at-risk visa within the 5 years immediately preceding the application; and
 - (b) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman, and that relationship had not been declared to Immigration.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia before 19 December 1989; and
 - (c) at the time the applicant entered Australia, he or she was engaged to be married to an Australian citizen or an Australian permanent resident; and
 - (d) the applicant has married that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and

(B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia on or after 19 December 1989 as the holder of a Subclass 300 (Prospective Marriage (Temporary)) visa that authorised a stay in Australia of 3 months; and
 - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
 - (d) the applicant ceased to hold a substantive visa before marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia on or after 19 December 1989 as the holder of a prospective marriage (temporary) visa; and
 - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and

- (d) the applicant ceased to hold a substantive visa after marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (6) An applicant meets the requirements of this subclause if the applicant:
- (a) is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (d) continues to be the spouse of the sponsoring partner.
- (7) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and

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- (c) the sponsoring partner has died; and
 - (d) the applicant satisfies the Minister that the applicant would have continued to be the spouse of the sponsoring partner if the sponsoring partner had not died; and
 - (e) the applicant has developed close business, cultural or personal ties in Australia.
- (8) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the relationship between the applicant and the sponsoring partner has ceased; and
 - (d) any 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (iii) a dependent child of the sponsoring partner or of the applicant or of both of them;has suffered family violence committed by the sponsoring partner.
- (9) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant has been the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (c) while that visa was valid, the applicant married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (d) the relationship between the applicant and the sponsoring partner has ceased; and
 - (e) any 1 or more of the following:
 - (i) the applicant;

- (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (iii) a dependent child of the sponsoring partner or of the applicant or of both of them;
- has suffered family violence committed by the sponsoring partner.

Note For special provisions relating to family violence, see Division 1.5.

820.212 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.22 Criteria to be satisfied at time of decision

- 820.221 (1) In the case of an applicant referred to in subclause 820.211 (2), (3), (4), (5), (6), (7), (8) or (9), the applicant either:
- (a) continues to meet the requirements of the applicable subclause; or
 - (b) meets the requirements of subclause (2) or (3).

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- (2) An applicant meets the requirements of this subclause if the applicant:
- (a) would continue to meet the requirements of subclause 820.211 (2), (3), (4), (5) or (6) except that the sponsoring partner has died; and
 - (b) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died; and
 - (c) has developed close business, cultural or personal ties in Australia.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant would continue to meet the requirements of subclause 820.211 (2), (3), (4), (5) or (6) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (b) either or both of the following circumstances applies:
 - (i) either or both of the following:
 - (A) the applicant;
 - (B) a dependent child of the sponsoring partner or of the applicant or of both of them;
has suffered family violence committed by the sponsoring partner;
 - (ii) the applicant:
 - (A) has custody or joint custody of, or access to;
or
 - (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;
at least 1 child in respect of whom the sponsoring partner:
 - (C) has been granted joint custody or access by a court; or
 - (D) has a residence order or contact order made under the *Family Law Act 1975*; or

- (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note For special provisions relating to family violence, *see* Division 1.5.

- (4) The sponsorship mentioned in paragraph 820.211 (2) (c), (3) (f), (4) (f), (5) (f) or (6) (c) has been approved by the Minister and is still in force.

820.221A Unless the applicant:

- (a) is, or has been, the holder of a prospective marriage (temporary) visa; and
- (b) is seeking to remain permanently in Australia on the basis of the applicant's marriage to the person who was specified as the intended spouse in the application that resulted in the grant of that prospective marriage (temporary) visa;

the sponsorship of the applicant under clause 820.211 has been approved by the Minister.

Note Regulations 1.20J, 1.20KA and 1.20KB limit the Minister's discretion to approve sponsorships.

820.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

820.223 (1) The applicant:

- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Paragraph (1) (a) does not apply to an applicant referred to in subclause 820.211 (3), (4) or (5).

820.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 820 visa is a person who:

- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(1A) Each member of the family unit of the applicant who is not an applicant for a Subclass 820 visa is a person who:

- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

(2) Paragraphs (1) (a) and (1A) (a) do not apply to an applicant who:

- (a) is a dependent child of an applicant referred to in subclause 820.211 (3), (4) or (5); and
- (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.

820.225 If a person (in this clause called the ***additional applicant***):

- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

820.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

820.3 Secondary criteria

Note A dependent child, or a member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria.

820.31 Criteria to be satisfied at time of application

820.311 The applicant is:

- (a) either:
 - (i) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
 - (ii) a member of the family unit of a person who:
 - (A) is the holder of, or has been the holder of, a prospective marriage (temporary) visa; and
 - (B) has applied for a Partner (Residence) (Class BS) visa; and
- (b) the sponsorship (if any) in respect of that person includes the applicant; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

820.312 In the case of an applicant who is not the holder of a substantive visa — either:

- (a) the applicant:
 - (i) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause 820.211 (2A); and
 - (ii) satisfies Schedule 3 criterion 3002; or
- (b) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.

820.313 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or

- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.32 Criteria to be satisfied at time of decision

820.321 In the case of an applicant referred to in clause 820.311, the applicant:

- (a) is a person who is dependent on, or a member of the family unit of, another person who having satisfied the primary criteria, is the holder of a Subclass 820 (Partner) visa (the *person who satisfies the primary criteria*); or
- (b) is a person to whom each of the following applies:
 - (i) the person made a combined application with the person who satisfies the primary criteria;
 - (ii) subsequent to the combined application being made, the person was found by the Minister not to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria;
 - (iii) subsequent to the person who satisfies the primary criteria being granted a Subclass 820 (Partner) visa and a Subclass 801 (Partner) visa — the Migration Review Tribunal found the person to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria.

820.322 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has

- been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 820.323 (1) The applicant:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Paragraph (1) (a) does not apply to an applicant referred to in subclause 820.311 who:
- (a) is a dependent child of another applicant referred to in subclause 820.211 (3), (4) or (5); and
- (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.
- 820.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 820.325 The sponsorship mentioned in paragraph 820.311 (b) has been approved by the Minister and is still in force.
- 820.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

820.4 Circumstances applicable to grant

- 820.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

820.5 When visa is in effect

- 820.511 Temporary visa permitting the holder to travel to and enter Australia until:

- (a) the holder is notified that his or her application for a Subclass 801 (Partner) visa has been decided; or
- (b) that application is withdrawn.

820.6 Conditions: Nil.

820.7 Way of giving evidence

820.711 No evidence need be given.

820.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 834 Permanent Resident of Norfolk Island

834.1 Interpretation

Note No interpretation provisions specific to this Part.

834.2 Primary criteria

Note All applicants must satisfy the primary criteria.

834.21 Criteria to be satisfied at time of application

834.211 The applicant is a permanent resident of Norfolk Island and holds, and has shown an officer, a passport that is in force and is endorsed with an authority to reside indefinitely on Norfolk Island.

834.22 Criteria to be satisfied at time of decision

834.221 The applicant continues to meet the requirements set out in clause 834.211.

834.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

834.4 Circumstances applicable to grant

834.411 At the time of grant the applicant must be in Australia and in immigration clearance.

834.5 When visa is in effect

834.511 Permanent visa permitting the holder to remain in Australia indefinitely.

834.6 Conditions: Nil.

834.7 Way of giving evidence

834.711 No evidence need be given.

834.712 If evidence is given, to be given by a port and date stamp placed in the passport of the holder.

Subclass 835 Remaining Relative

835.1 Interpretation

835.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note *Australian relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03. *Remaining relative* is defined in regulation 1.15. *De facto partner* is defined in section 5CB of the Act (also see regulations 1.09A and 2.03A) and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

835.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

835.21 Criteria to be satisfied at time of application

835.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

835.212 The applicant is a remaining relative of an Australian relative.

835.213 The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

835.22 Criteria to be satisfied at time of decision

835.221 The applicant continues to satisfy the criterion in clause 835.212.

835.222 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

835.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 835.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 835 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 835 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 835.225 If a person (in this clause called the *additional applicant*):
 - (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 835.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 835.227 A sponsorship of the kind mentioned in clause 835.213, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 835.213.
- 835.228 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

835.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

835.31 Criteria to be satisfied at time of application

- 835.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Other Family (Residence) (Class BU) visa; and
 - (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 835.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 835.312 A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

835.32 Criteria to be satisfied at time of decision

- 835.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 835 visa.
- 835.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

835.323 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

835.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

835.325 A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.

835.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

835.4 Circumstances applicable to grant

835.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

835.5 When visa is in effect

835.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

835.6 Conditions: Nil.

835.7 Way of giving evidence

835.711 No evidence need be given.

835.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 836 Carer

836.1 Interpretation

836.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *carer* is defined in regulation 1.15AA.

836.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

836.21 Criteria to be satisfied at time of application

836.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

836.212 The applicant claims to be the carer of an Australian relative.

836.213 The applicant is sponsored

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

836.22 Criteria to be satisfied at time of decision

836.221 The applicant is a carer of a person referred to in clause 836.212.

836.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

836.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 836 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 836 visa:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

-
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 836.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 836.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 836.227 The sponsorship mentioned in clause 836.213 has been approved by the Minister and is still in force.
- 836.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

836.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

836.31 Criteria to be satisfied at time of application

- 836.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Other Family (Residence) (Class BU) visa; and

- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 836.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

- 836.312 The sponsorship mentioned in clause 836.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

836.32 Criteria to be satisfied at time of decision

- 836.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 836 visa.

- 836.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 836.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 836.325 The sponsorship mentioned in clause 836.312 has been approved by the Minister and is still in force.

- 836.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

836.4 Circumstances applicable to grant

- 836.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation

to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

836.5 When visa is in effect

836.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

836.6 Conditions: Nil.

836.7 Way of giving evidence

836.711 No evidence need be given.

836.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 837 Orphan Relative

837.1 Interpretation

837.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note *dependent child*, *eligible New Zealand citizen*, *relative* and *settled* are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

837.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

837.21 Criteria to be satisfied at time of application

- 837.211 If the applicant is a person to whom section 48 of the Act applies, the applicant:
- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
 - (b) since last applying for an entry permit or substantive visa:
 - (i) has become an orphan relative of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (ii) became an orphan relative of the person mentioned in subparagraph (i) and is no longer an orphan relative only because the applicant has been adopted by that person.
- 837.212 The applicant is:
- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.
- 837.213 The applicant:
- (a) is an orphan relative of an Australian relative of the applicant; or
 - (b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).
- 837.214 The applicant is sponsored:
- (a) by the Australian relative, if the relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or

- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) cohabits with the Australian relative.

837.22 Criteria to be satisfied at time of decision

- 837.221 The applicant:
- (a) continues to satisfy the criterion in clause 837.213; or
 - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- 837.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 837.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 837.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 837 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 837 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 837.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 837.226 The sponsorship mentioned in clause 837.214 has been approved by the Minister and is still in force.
- Note* Regulation 1.20KB limits the Minister's discretion to approve sponsorships.

- 837.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

837.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

837.31 Criteria to be satisfied at time of application

- 837.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Child (Residence) (Class BT) visa; and
 - (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 837.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 837.312 The sponsorship mentioned in clause 837.214 of the person who satisfies the primary criteria includes sponsorship of the applicant.

837.32 Criteria to be satisfied at time of decision

- 837.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 837 visa.
- 837.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

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- 837.323 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 837.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 837.325 The sponsorship mentioned in clause 837.312 has been approved by the Minister and is still in force.
- 837.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

837.4 Circumstances applicable to grant

- 837.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

837.5 When visa is in effect

- 837.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

837.6 Conditions: Nil.

837.7 Way of giving evidence

837.711 No evidence need be given.

837.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 838 Aged Dependent Relative

838.1 Interpretation

838.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note *aged dependent relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03.

838.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

838.21 Criteria to be satisfied at time of application

838.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

838.212 The applicant is an aged dependent relative of an Australian relative.

- 838.213 The applicant is sponsored:
- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
 - (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

838.22 Criteria to be satisfied at time of decision

- 838.221 The applicant continues to satisfy the criterion in clause 838.212.
- 838.222 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 838.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019.
- 838.224
- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 838 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
 - (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 838 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the

person to undergo assessment in relation to that criterion.

- 838.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 838.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 838.227 The sponsorship mentioned in clause 838.213 has been approved by the Minister and is still in force.
- 838.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

838.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

838.31 Criteria to be satisfied at time of application

- 838.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Other Family (Residence) (Class BU) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 838.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

- 838.312 The sponsorship mentioned in clause 838.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

838.32 Criteria to be satisfied at time of decision

- 838.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 838 visa.

- 838.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 838.323 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

- 838.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 838.325 The sponsorship mentioned in clause 838.312 has been approved by the Minister and is still in force.

- 838.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

838.4 Circumstances applicable to grant

838.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

838.5 When visa is in effect

838.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

838.6 Conditions: Nil.

838.7 Way of giving evidence

838.711 No evidence need be given.

838.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 845 Established Business in Australia

845.1 Interpretation

Note 1 *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03; and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 There are no interpretation provisions specific to this Part.

845.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

845.21 Criteria to be satisfied at time of application

- 845.211 The applicant holds a temporary substantive visa other than any of the following visas:
- (a) a special purpose visa;
 - (b) a Border (Temporary) (Class TA) visa;
 - (c) a Diplomatic (Temporary) (Class TF) visa;
 - (d) a Domestic Worker (Temporary) (Class TG) visa;
 - (e) a Transit (Temporary) (Class TX) visa;
 - (ea) a Maritime Crew (Temporary) (Class ZM) visa;
 - (eb) Superyacht Crew (Temporary) (Class UW) visa;
 - (f) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a visa referred to in paragraph (a), (b), (c), (d) or (e) before 1 September 1994.
- 845.212 One or more of the following circumstances has existed for a total of at least 272 days in the period of 12 months ending immediately before the application is made:
- (a) the applicant has been in Australia as the holder of a temporary substantive visa other than a visa referred to in clause 845.211;
 - (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2;
 - (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2.

- 845.213 The applicant:
- (a) has had an ownership interest in 1 or more established main businesses in Australia for the period of 18 months immediately preceding the making of the application; and
 - (b) continues to have an interest of that kind.
- 845.214 The assets in Australia of the applicant, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD250 000; and
 - (b) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 845.215 The assets owned by the applicant, or by the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
- (a) have a net value of at least AUD100 000; and
 - (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 845.216 In the 12 months immediately preceding the making of the application, the applicant, as the owner of an interest in a main business or main businesses in Australia, maintained direct and continuous involvement in the management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.
- 845.217 The applicant has overall had a successful business career.
- 845.218 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities of a nature that is not generally acceptable in Australia.

- 845.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 845 visa.

845.22 Criteria to be satisfied at time of decision

- 845.221 The applicant continues to satisfy the criteria in clauses 845.213 to 845.218.

- 845.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):

- (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:

- (i) Division 1.4 of Schedule 7; and
(ii) Parts 2, 3 and 4 of that Schedule; and

- (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:

- (i) in the case of an attribute specified in Division 3.1 of Schedule 7 — at the time when the application is decided; and
(ii) in the case of any other attribute — at the time when the application is made;

and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and

- (c) in determining the score of an applicant under Part 4 of Schedule 7, only:

- (i) assets in Australia that have been lawfully acquired; or
(ii) assets, lawfully acquired, that are available for transfer, and capable of being transferred, to Australia within 2 years of the grant of a business skills visa to the applicant;

are to be taken into account.

- 845.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 845.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 845 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 845 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 845.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 845.226 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

845.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

845.31 Criteria to be satisfied at time of application

- 845.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Business Skills — Established Business (Residence) (Class BH) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 845.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.

845.32 Criteria to be satisfied at time of decision

- 845.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person (in this clause called *the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 845 visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;

has suffered family violence committed by the non-dependent holder.

- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 845 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

845.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

845.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

845.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

845.4 Circumstances applicable to grant

845.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

845.5 When visa is in effect

845.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 5 years from the date of grant.

845.6 Conditions: Nil.

845.7 Way of giving evidence

845.711 No evidence need be given.

845.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 846 State/Territory Sponsored
Regional Established Business
in Australia**

846.1 Interpretation

846.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 appropriate regional authority, AUD, designated area and ownership interest are defined in regulation 1.03; and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

846.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

846.21 Criteria to be satisfied at time of application

846.211 The applicant:

- (a) is the holder of a Subclass 457 (Business (Long Stay)) visa; and
- (b) has been in Australia as the holder of a temporary substantive visa for a period of, or periods amounting to, at least 1 year during the period of 2 years immediately preceding the making of the application.

- 846.212 The applicant:
- (a) has had, throughout the 2 years immediately preceding the making of the application, an ownership interest in 1 or more established main businesses in 1 or more designated areas, which has, or together have, either:
 - (i) had a turnover of not less than AUD200,000 in each of those years; or
 - (ii) exported goods or services of a value not less than AUD100,000 in each of those years; and
 - (b) continues to have an interest of that kind.
- 846.213 The assets in Australia of the applicant, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD200 000; and
 - (b) had a net value of at least AUD200 000 throughout the period of 2 years ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 846.214 The assets owned by the applicant, or by the applicant and his or her spouse or de facto partner together, in 1 or more established main businesses in 1 or more designated areas:
- (a) have a net value of at least AUD75 000; and
 - (b) had a net value of at least AUD75 000 throughout the period of 2 years ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 846.215 Throughout the 2 years immediately preceding the making of the application, the applicant, as the owner of an interest in 1 or more established main businesses in 1 or more designated areas, maintained direct and continuous involvement in the management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.

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- 846.216 The applicant has overall had a successful business career.
- 846.217 Neither the applicant nor the applicant's spouse or de facto partner (if any) has a history of involvement in business or investment activities of a nature that is not generally acceptable in Australia.
- 846.218 (1) The applicant has notified an appropriate regional authority of a State or Territory of the applicant's business history in a designated area, or designated areas, in that State or Territory.
- (2) The applicant submits a notification, on approved form 950, from that appropriate regional authority stating that the authority will consider sponsoring the applicant.
- (3) The notification must:
- (a) be signed by an officer of the authority who is authorised to sign a notification of that kind; and
 - (b) bear the seal of the authority.
- 846.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 846 visa.
- 846.22 Criteria to be satisfied at time of decision**
- 846.221 The applicant continues to satisfy the criteria in clauses 846.211 to 846.218.
- 846.222 (1) The applicant meets the requirements of subclause (1A) or (1B).
- (1A) An applicant meets the requirements of this subclause if the applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.
- (1B) An applicant meets the requirements of this subclause if:
- (a) the applicant's score on the business skills points test is less than the number of points that is specified for the purposes of subclause (1A) by Gazette Notice; and

- (b) the regional authority mentioned in subclause 846.218 (2) satisfies the Minister that there are exceptional circumstances that justify the grant of the Subclass 846 visa to the applicant.
 - (2) For the purposes of subclauses (1A) and (1B):
 - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
 - (i) Division 1.5 of Schedule 7; and
 - (ii) Parts 2, 3, 4 and 5 of that Schedule; and
 - (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
 - (i) in the case of an attribute specified in Part 3 or 5 of that Schedule — at the time when the application is decided; and
 - (ii) in the case of any other attribute — at the time when the application is made;and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
 - (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
 - (i) assets in Australia that have been lawfully acquired; or
 - (ii) assets, lawfully acquired, that are available for transfer, and capable of being transferred, to Australia within 2 years of the grant of a Business Skills — Established Business (Residence) (Class BH) visa to the applicant;are to be taken into account.
- 846.223 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.
- (2) The sponsorship must:
- (a) be given by the same authority as gave the notification referred to in subclause 846.218 (2); and

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- (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
 - (c) bear the seal of that authority; and
 - (d) be given to the Minister within 90 days after the Minister asks for it; and
 - (e) be the first sponsorship of that kind, in relation to the applicant, given to the Minister.
- 846.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- 846.225
- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 846 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
 - (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 846 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
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(b) either:

- (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
- (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

846.226 If a person (in this clause called the ***additional applicant***):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

846.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

846.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

846.31 Criteria to be satisfied at time of application

846.311 The applicant is a member of the family unit of a person who:

- (a) has applied for a Business Skills — Established Business (Residence) (Class BH) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 846.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

846.32 Criteria to be satisfied at time of decision

- 846.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person (in this clause called *the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 846 visa.

(3) An applicant meets the requirements of this subclause if:

- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
- (b) the relationship between the non-dependent holder and the applicant has ceased; and
- (c) 1 or more of the following persons:
- (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;
- has suffered family violence committed by the non-dependent holder.

(4) An applicant meets the requirements of this subclause if:

- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
- (b) the spouse or de facto partner meets the requirements of subclause (3); and
- (c) the applicant has made a combined application with the non-dependent holder; and

- (d) the spouse or de facto partner has been granted a Subclass 846 visa.

Note For special provisions relating to family violence, see Division 1.5.

846.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.

846.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

846.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

846.4 Circumstances applicable to grant

846.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

846.5 When visa is in effect

846.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 5 years from the date of grant.

846.6 Conditions: Nil.

846.7 Way of giving evidence

846.711 No evidence need be given.

846.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 850 Resolution of Status (Temporary)

850.1 Interpretation

Note ***dependent child*** is defined in regulation 1.03, ***member of the family unit*** in regulation 1.12, and ***member of the immediate family*** in regulation 1.12AA. There are no interpretation provisions specific to this Part.

850.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 person. The members of the immediate family of the person who satisfies the primary criteria and the dependent children of the spouse or de facto partner of that person, being members or children who are applicants for a visa of this Subclass, need satisfy only the secondary criteria.

850.21 Criteria to be satisfied at time of application

850.211 If:

- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or
- (b) the applicant is a person to whom section 48 of the Act applies;

the applicant has not been refused a visa, or had a visa cancelled, under section 501 of the Act.

- 850.212 (1) The applicant entered Australia, as the holder of:
- (a) a valid passport of a country mentioned in subclause (3); and
 - (b) an entry permit or an entry visa that had effect as an entry permit.
- (2) The applicant so entered Australia on or before the date specified in subclause (3) in relation to that country.
- (3) The countries and dates mentioned in subclauses (1) and (2) are as follows:
- (a) Iraq — 31 October 1991;
 - (b) Kuwait — 31 October 1991;
 - (c) Lebanon — 30 November 1991;
 - (d) PRC — 1 November 1993;
 - (e) Sri Lanka — 1 November 1993;
 - (f) Socialist Federal Republic of Yugoslavia — 1 November 1993;
 - (g) Federal Republic of Yugoslavia — 1 November 1993;
 - (h) Former Yugoslav Republic of Macedonia — 1 November 1993;
 - (i) Republic of Bosnia and Herzegovina — 1 November 1993;
 - (j) Republic of Croatia — 1 November 1993;
 - (k) Republic of Slovenia — 1 November 1993.
- 850.213 Immediately before the date when the applicant entered Australia as mentioned in clause 850.212, the applicant was a citizen of the country the government of which issued the passport, and was usually resident:
- (a) if the applicant was a citizen of Iraq — in Iraq; or
 - (b) if the applicant was a citizen of Kuwait — in Kuwait; or
 - (c) if the applicant was a citizen of Lebanon — in Lebanon; or
 - (d) if the applicant was a citizen of PRC — in PRC; or
 - (e) if the applicant was a citizen of Sri Lanka — in Sri Lanka; or

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- (f) if the applicant was a citizen of:
- (i) the Socialist Federal Republic of Yugoslavia; or
 - (ii) the Federal Republic of Yugoslavia; or
 - (iii) the Former Yugoslav Republic of Macedonia; or
 - (iv) the Republic of Bosnia and Herzegovina; or
 - (v) the Republic of Croatia; or
 - (vi) the Republic of Slovenia —
in a place that, on 19 June 1991, formed part of the
Socialist Federal Republic of Yugoslavia.
- 850.214 (1) The applicant was in Australia for a period that is, or for periods that total, not less than 90% of the period that began on a date when the applicant entered Australia as mentioned in clause 850.212 and ended on the date of the making of the application.
- (2) For the purposes of subclause (1), where the applicant was not in Australia for 90% of the period, the Minister may include periods when the applicant was outside Australia if:
- (a) the applicant has maintained close business, cultural or personal ties in Australia; and
 - (b) the Minister is satisfied that compelling or strongly compassionate circumstances exist that explain why the applicant was outside Australia during those periods.
- 850.215 On 13 June 1997:
- (a) the applicant was in Australia; or
 - (b) the applicant was outside Australia and was the holder of a visa that was in effect and permitted the applicant to travel to and enter Australia.
- 850.216 The applicant is not the holder of a Diplomatic (Temporary) (Class TF) visa or a transitional (temporary) visa that the applicant is taken to hold because the applicant, before 1 September 1994, held, or applied for:
- (a) a diplomatic (code number 995) visa under the Migration (1989) Regulations; or
 - (b) a Class 995 (Diplomatic) visa under the Migration (1993) Regulations.

850.217 If 2 or more persons have made a combined application as mentioned in paragraph 1216A (3) (f) of Schedule 1, the applicant is 18 years or more.

850.22 Criteria to be satisfied at time of decision

850.221 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.222 Each member of the immediate family of the applicant, and each dependent child of the spouse or de facto partner of the applicant, who is an applicant for a Subclass 850 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.223 Each member of the family unit of the applicant who is not an applicant for a Subclass 850 visa is a person who satisfies:
(a) public interest criteria 4001, 4002, 4003 and 4004; and
(b) public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

850.224 The applicant has never entered Australia otherwise than as the holder of:
(a) a valid passport; and
(b) a visa or entry permit.

850.225 If the applicant is, or has been, a student under a scholarship scheme or training program approved by AusAID:
(a) the applicant made the application more than 2 years after the applicant's departure from Australia on ceasing the course of studies under the scheme or program; or
(b) the applicant has the support in writing of AusAID for the grant of the visa.

850.226 If a person (in this clause called the *additional applicant*):
(a) is a member of the family unit of the applicant; and
(b) has not turned 18; and
(c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

850.3 Secondary criteria

Note If an applicant satisfies the primary criteria, a member of the immediate family of the applicant, or a dependent child of the spouse or de facto partner of that applicant, who is an applicant for a visa of this Subclass, is also eligible for the grant of the visa if the member or child satisfies the secondary criteria.

850.31 Criteria to be satisfied at time of application

850.311 The applicant is:

- (a) a member of the immediate family of a person (*the principal person*) who:
 - (i) has made an application for a Resolution of Status (Temporary) (Class UH) visa mentioned in paragraph 1216A (3) (a) of Schedule 1; and
 - (ii) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 850.21; or
- (b) a dependent child of the spouse or de facto partner of the principal person, being a spouse or de facto partner who is an applicant for a Resolution of Status (Temporary) (Class UH) visa.

850.312 The applicant:

- (a) was, on 13 June 1997, a member of the immediate family of the principal person; or
- (b) became a dependent child of the principal person after that date; or
- (c) was, on 13 June 1997, a dependent child of the spouse or de facto partner of the principal person.

850.313 The applicant has made (or is taken by regulation 2.08B to have made) a combined application with the principal person.

850.314 The applicant is not the holder of a Diplomatic (Temporary) (Class TF) visa or a transitional (temporary) visa that the applicant is taken to hold because the applicant, before 1 September 1994, held, or applied for:

- (a) a diplomatic (code number 995) visa under the Migration (1989) Regulations; or

- (b) a Class 995 (Diplomatic) visa under the Migration (1993) Regulations.

850.32 Criteria to be satisfied at time of decision

- 850.321
- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
 - (2) The applicant is a member of the immediate family of a person who, having satisfied the primary criteria, is the holder of a Subclass 850 visa.
 - (3) If:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (***the principal holder***) who, having satisfied the primary criteria, is the holder of a Subclass 850 visa; and
 - (b) the applicant would meet the requirements of subclause (2) except that the relationship between the applicant and the principal holder has ceased; and
 - (c) the applicant:
 - (i) has custody or joint custody of, or access to; or
 - (ii) has a residence order or contact order made under the *Family Law Act 1975* relating to;
at least 1 child in respect of whom the principal holder:
 - (iii) has been granted joint custody or access by a court; or
 - (iv) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (v) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.
 - (4) The applicant is a dependent child of the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 850 visa.
 - (5) If:
 - (a) at the time of the application, the applicant was a dependent child of the spouse or de facto partner of a

person (*the principal holder*) who, having satisfied the primary criteria, is the holder of a Subclass 850 visa; and

- (b) the applicant would meet the requirements of subclause (4) except that the spouse or de facto partner of the principal holder has died;

the Minister is satisfied that:

- (c) the applicant would have continued to be a dependent child of the spouse or de facto partner of the principal holder if the spouse or de facto partner had not died; and
 - (d) either:
 - (i) the married relationship or de facto relationship between the spouse or de facto partner and the principal holder would have continued; or
 - (ii) if the married relationship or de facto relationship between the spouse or de facto partner and the principal holder had ceased before the death of the spouse or de facto partner — the principal holder:
 - (A) has been granted joint custody or access by a court; or
 - (B) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (C) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation;
- in relation to the applicant.

850.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.323 The applicant has never entered Australia otherwise than as the holder of:

- (a) a valid passport; and
- (b) a visa or entry permit.

850.324 If the applicant is, or has been, a student under a scholarship scheme or training program approved by AusAID:

- (a) the applicant made the application more than 2 years after the applicant's departure from Australia on ceasing the course of studies under the scheme or program; or

- (b) the applicant has the support in writing of AusAID for the grant of the visa.

850.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

850.4 Circumstances applicable to grant

850.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

850.5 When visa is in effect

850.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia until a date specified by the Minister; and
- (b) to remain in Australia until the end of the day on which:
 - (i) the holder is notified that the holder's application for a Resolution of Status (Residence) (Class BL) visa has been decided; or
 - (ii) that application is withdrawn.

850.6 Conditions: Nil.

850.7 Way of giving evidence

850.711 Visa label affixed to a passport.

Subclass 851 Resolution of Status

851.1 Interpretation

Note There are no interpretation provisions specific to this Part.

851.2 Primary criteria

Note The primary criteria have to be satisfied by all applicants for Subclass 851 visas.

851.21 [No criteria to be satisfied at time of application]

851.22 Criteria to be satisfied at time of decision

851.221 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

851.222 The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

851.223 A relevant medical practitioner:

- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under clause 851.221; and

- (ii) the radiological report (if any) required under clause 851.222 in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- 851.224 If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.
- 851.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003A; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 851.226 If the applicant was taken to have made an application because the criteria in item 4 of the table in subregulation 2.07AQ (3) were satisfied, the applicant and the other person mentioned in that item are members of the family unit.
- 851.227 If the criteria in item 3 of the table in paragraph 1127AA (3) (c) of Schedule 1 were satisfied, the applicant and the other person mentioned in that item are members of the same family unit.

851.3 Secondary criteria

Note There are no secondary criteria for the grant of a Subclass 851 visa.

851.4 Circumstances applicable to grant

- 851.411 The applicant must be in Australia.

851.5 When visa is in effect

851.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

851.6 Conditions: Nil.

851.7 Way of giving evidence

851.711 No evidence need be given.

851.712 If evidence is given, to be given by a label affixed to a valid passport, valid Convention travel document or an approved form.

Subclass 852 Witness Protection (Trafficking) (Permanent)

852.1 Interpretation

Note 1 Regulation 1.03 provides that *member of the immediate family* has the meaning set out in regulation 1.12AA.

Note 2 There are no interpretation provisions specific to this Part.

852.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of an immediate family. The other members of the immediate family who are applicants for a visa of this subclass need satisfy only the secondary criteria.

852.21 Criteria to be satisfied at time of application

852.211 The applicant is taken to have made a valid application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa under subregulation 2.07AK (2) in accordance with subregulation 2.07AK (3).

852.22 Criteria to be satisfied at time of decision

852.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

852.223 The requirements of paragraphs 2.07AK (3) (d), (e) and (f) continue to be met in relation to the applicant.

852.224 Each member of the immediate family of the applicant who is an applicant for a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

852.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the immediate family of a person who satisfies the primary criteria.

852.31 Criteria to be satisfied at time of application

852.311 The applicant is a member of the immediate family of a person who is taken, under subregulation 2.07AK (2), to have made a valid application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa in accordance with subregulation 2.07AK (3).

Note See regulation 2.07AK for how an application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa is taken to have been validly made.

852.312 The Minister has not decided to grant or refuse to grant a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa to the person mentioned in clause 852.311.

852.32 Criteria to be satisfied at time of decision

- 852.321 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 852.322 The applicant continues to be a member of the immediate family of the person mentioned in clause 852.311.
- 852.323 The person mentioned in clause 852.311 has been granted a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa.
- 852.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

852.4 Circumstances applicable to grant

- 852.411 The applicant may be in or outside Australia when the visa is granted.

852.5 When visa is in effect

- 852.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

852.6 Conditions

- 852.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified for this clause by the Minister.

852.7 Way of giving evidence

- 852.711 No evidence need be given.
- 852.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 855 Labour Agreement

855.1 Interpretation

855.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 For *award course*, see regulation 1.03.

Note 2 For *category A course*, see regulation 1.03.

Note 3 For *category B student*, see regulation 1.03.

Note 3A For *competent English*, see regulation 1.15C.

Note 4 For *diploma*, see subregulation 2.26A (6).

Note 5 For *IASS agreement*, see regulation 1.16B.

Note 6 For *labour agreement*, see regulation 1.03.

Note 7 For *RHQ agreement*, see regulation 1.16A.

855.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

855.21 Criteria to be satisfied at time of application

855.211 (1) The applicant is not the holder of:

- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or

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- (b) a special purpose visa; or
- (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
- (b) the last substantive visa held by the applicant was not:
- (i) a visa of one of the following classes:
- (A) Electronic Travel Authority (Class UD);
- (B) Long Stay (Visitor) (Class TN);
- (BA) Maritime Crew (Temporary) (Class ZM);
- (C) Short Stay Sponsored (Visitor) (Class UL)
(also known as a Sponsored (Visitor) (Class UL));
- (D) Short Stay (Visitor) (Class TR);
- (DA) Superyacht Crew (Temporary) (Class UW);
- (F) Tourist (Class TR);
- (G) Visitor (Class TV); or
- (ii) a special purpose visa; or
- (iii) a Subclass 456 (Business (Short Stay)) visa.
- 855.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6) or (7).
- (2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.
- (3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).
- (4) For the purposes of subclause (3), a visa is a qualifying visa if it is:
- (a) a visa of one of the following classes:
- (i) Business (Temporary) (Class TB);

- (ii) Cultural/Social (Temporary) (Class TE);
 - (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) New Zealand Citizen (Family Relationship) (Temporary) (Class UP); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
 - (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (e) a Subclass 476 (Skilled — Recognised Graduate) visa; or
 - (f) a Subclass 485 (Skilled — Graduate) visa.
- (5) The applicant meets the requirements of this subclause if he or she:
- (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
 - (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994.

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- (6) The applicant meets the requirements of this subclause if:
- (a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or
 - (b) he or she:
 - (i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and
 - (ii) is not a category B student for the purposes of the Migration (1993) Regulations.
- (7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.
- 855.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).
- 855.213 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with a labour agreement that is in effect, by an employer that is a party to that labour agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the labour agreement; and
 - (c) unless exceptional circumstances apply:
 - (i) the applicant is less than 45; or
 - (ii) in the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1 — the applicant was less than 45 at the time of application for the Skilled (Residence) (Class VB) visa or the Skilled (Migrant) (Class VE) visa; and

- (d) the requirements of the labour agreement have been met in relation to the application.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with an RHQ agreement that is in effect, by an employer that is a party to that RHQ agreement; and
 - (b) the requirements of the RHQ agreement have been met in relation to the application.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with an IASS agreement that is in effect, by an employer that is a party to that IASS agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the IASS agreement; and
 - (c) unless exceptional circumstances apply:
 - (i) the applicant is less than 45; or
 - (ii) in the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1 — the applicant was less than 45 at the time of application for the Skilled (Residence) (Class VB) visa or the Skilled (Migrant) (Class VE) visa; and
 - (d) the requirements of the IASS agreement have been met in relation to the application.

- 855.214 In the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1:
- (a) the applicant has competent English; and
 - (b) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification.

855.22 Criteria to be satisfied at time of decision

- 855.221 (1) The applicant meets the requirements of subclause (2), (3) or (4).

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- (2) An applicant meets the requirements of this subclause if:
- (a) the employer mentioned in subclause 855.213 (2) is a party to a labour agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (2):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
- (3) An applicant meets the requirements of this subclause if:
- (a) the employer mentioned in subclause 855.213 (3) is a party to an RHQ agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (3):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
- (4) An applicant meets the requirements of this subclause if:
- (a) the employer mentioned in subclause 855.213 (4) is a party to an IASS agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (4):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
- 855.222 The Minister is satisfied that the applicant's working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards.
- 855.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and

- (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- 855.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 855 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- (1A) Each member of the family unit of the applicant who is an applicant for a Subclass 855 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 855 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) either:
 - (i) if the applicant resides or proposes to reside in a participating State or Territory — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
 - (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 855.226 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 855.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

855.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

855.31 Criteria to be satisfied at time of application

- 855.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Labour Agreement (Residence) (Class BV) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 855.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 855.312 Any nomination given in respect of that other person includes the applicant.
- 855.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

855.32 Criteria to be satisfied at time of decision

- 855.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (***the non-dependent holder***) who, having satisfied the primary criteria, is the holder of a Subclass 855 visa.
- (3) The applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 855 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

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- 855.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- 855.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 855.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

855.4 Circumstances applicable to grant

- 855.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

855.5 When visa is in effect

- 855.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

855.6 Conditions: Nil.

855.7 Way of giving evidence

- 855.711 No evidence need be given.

855.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 856 Employer Nomination Scheme

856.1 Interpretation

856.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 For *award course*, see regulation 1.03.

Note 2 For *approved appointment*, see regulation 5.19.

Note 3 For *category A course*, see regulation 1.03.

Note 4 For *category B student*, see regulation 1.03.

Note 5 For *competent English*, see regulation 1.15C.

Note 6 For *diploma*, see subregulation 2.26A (6).

Note 7 For *vocational English*, see regulation 1.15B.

856.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

856.21 Criteria to be satisfied at time of application

- 856.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
- (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);

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- (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 856.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6) or (7).
- (2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.
- (3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).
- (4) For the purposes of subclause (3), a visa is a qualifying visa if it is:
- (a) a visa of one of the following classes:
 - (i) Business (Temporary) (Class TB);
 - (ii) Cultural/Social (Temporary) (Class TE);

- (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) New Zealand Citizen (Family Relationship) (Temporary) (Class UP);
 - (x) Skilled — Independent Regional (Provisional) (Class UX);
 - (xi) Skilled (Provisional) (Class VC);
 - (xii) Skilled (Provisional) (Class VF); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
 - (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (e) a Subclass 161 (Senior Executive (Provisional)) visa; or
 - (f) a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) visa.
- (5) The applicant meets the requirements of this subclause if he or she:
- (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
 - (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994.

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- (6) The applicant meets the requirements of this subclause if:
- (a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or
 - (b) he or she:
 - (i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and
 - (ii) is not a category B student for the purposes of the Migration (1993) Regulations.
- (7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.
- 856.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).
- 856.213 Each of the following is satisfied:
- (a) the applicant has been nominated by an employer, in accordance with subregulation 5.19 (2), for an appointment in the business of that employer;
 - (b) either:
 - (i) both of the following are met:
 - (A) an assessing authority specified by the Minister in a Gazette Notice for this sub-subparagraph as the assessing authority for the occupation to which the appointment relates has assessed the applicant's skills as suitable;
 - (B) unless exceptional circumstances apply, the applicant has been employed in the occupation to which the appointment relates for at least 3 years before making the application; or

- (ii) the applicant will be paid a salary in the nominated position that is at least the amount of salary specified in a Gazette Notice for this subparagraph; or
- (iii) the applicant:
 - (A) holds a Subclass 418, 421, 422, 428, 444, 457 or 461 visa; and
 - (B) has worked full-time in the occupation to which the appointment relates in Australia, while holding a visa of a subclass mentioned in sub-subparagraph (A), for at least the period of 2 years immediately before making the application; and
 - (C) has worked full-time for the employer mentioned in paragraph (a), and in the occupation to which the appointment relates, while holding a visa of a subclass mentioned in sub-subparagraph (A), for at least the period of 1 year immediately before making the application;
- (c) either:
 - (i) in the case of an applicant mentioned in subparagraph 1114A (2) (a) (iii) or (iv) of Schedule 1 — the applicant:
 - (A) is less than 45 at the time of the application for a Skilled (Residence) (Class VB) visa or a Skilled (Migrant) (Class VE) visa; and
 - (B) has competent English; and
 - (C) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification; or
 - (ii) in any other case — unless exceptional circumstances apply, the applicant:
 - (A) is less than 45; and
 - (B) has vocational English.

856.214 If the appointment is an approved appointment, the period that has elapsed since it became an approved appointment does not exceed 6 months.

- 856.215 If it is mandatory in Australia that a person:
- (a) hold a licence of a particular kind; or
 - (b) hold registration of a particular kind; or
 - (c) be a member (or a member of a particular kind) of a particular professional body;
- to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body.

856.22 Criteria to be satisfied at time of decision

- 856.221 The appointment mentioned in paragraph 856.213 (a):

- (a) has been approved; and
- (b) has not been withdrawn; and
- (c) continues to satisfy the criteria for approval; and
- (d) is still available to the applicant.

Note See regulation 5.19 for the criteria for approval of the appointment.

- 856.222 The Minister is satisfied that the appointment mentioned in paragraph 856.213 (a) will provide the employment referred to in the relevant employer nomination.

- 856.223 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) The applicant also satisfies:
- (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;

- (ii) if the applicant resides or proposes to reside in a participating State or Territory;
public interest criterion 4007; or
 - (b) if paragraph (a) does not apply — public interest criterion 4005.
- 856.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 856 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (1AA) Each member of the family unit of the applicant is a person who also satisfies:
 - (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (ii) if the applicant resides or proposes to reside in a participating State or Territory;
public interest criterion 4007; or
 - (b) if paragraph (a) does not apply — public interest criterion 4005.
- (1A) Each member of the family unit of the applicant who is an applicant for a Subclass 856 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 856 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

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- (b) either:
- (i) if:
- (A) the applicant was the holder, at the time of application, of:
- (I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (II) a Subclass 475 (Skilled — Regional Sponsored) visa; or
- (III) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (B) the applicant resides or proposes to reside in a participating State or Territory;
- satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
- (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 856.226 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 856.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

856.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

856.31 Criteria to be satisfied at time of application

- 856.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Employer Nomination (Residence) (Class BW) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 856.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 856.312 Any nomination given in respect of that other person includes the applicant.
- 856.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

856.32 Criteria to be satisfied at time of decision

- 856.321
- (1) The applicant meets the requirements of subclause (2), (3) or (4).
 - (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 856 visa.
 - (3) The applicant meets the requirements of this subclause if:
 - (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and

- (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;
has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 856 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

- 856.322
- (1) The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
 - (2) The applicant also satisfies:
 - (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;

- (ii) if the applicant resides or proposes to reside in a participating State or Territory;
public interest criterion 4007; or
 - (b) if paragraph (a) does not apply — public interest criterion 4005.
- 856.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 856.325 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

856.4 Circumstances applicable to grant

- 856.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

856.5 When visa is in effect

- 856.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

856.6 Conditions: Nil.

856.7 Way of giving evidence

- 856.711 No evidence need be given.
- 856.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 857 Regional Sponsored Migration Scheme

857.1 Interpretation

857.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

regional Australia has the same meaning as in regulation 5.19.

Note 1 For *approved appointment*, see regulation 5.19.

Note 2 For *award course*, see regulation 1.03.

Note 3 For *category A course*, see regulation 1.03.

Note 4 For *category B student*, see regulation 1.03.

Note 4A For *competent English*, see regulation 1.15C.

Note 5 For *diploma*, see subregulation 2.26A (6).

Note 6 For *functional English*, see regulation 5.17.

Note 7 For *IASS agreement*, see regulation 1.16B.

Note 8 For *labour agreement*, see regulation 1.03.

Note 9 For *RHQ agreement*, see regulation 1.16A.

857.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

857.21 Criteria to be satisfied at time of application

- 857.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);

- (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.

857.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6), (7) or (8).

(2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.

(3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).

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- (4) For the purposes of subclause (3), a visa is a qualifying visa if it is:
- (a) a visa of one of the following classes:
 - (i) Business (Temporary) (Class TB);
 - (ii) Cultural/Social (Temporary) (Class TE);
 - (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) Skilled — Independent Regional (Provisional) (Class UX);
 - (x) New Zealand Citizen (Family Relationship) (Temporary) (Class UP);
 - (xi) Skilled (Provisional) (Class VC);
 - (xii) Skilled (Provisional) (Class VF); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
 - (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (e) a Subclass 161 (Senior Executive (Provisional)) visa; or
 - (f) a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) visa.
- (5) The applicant meets the requirements of this subclause if he or she:
- (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and

- (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994.
- (6) The applicant meets the requirements of this subclause if:
 - (a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or
 - (b) he or she:
 - (i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and
 - (ii) is not a category B student for the purposes of the Migration (1993) Regulations.
- (7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.
- (8) The applicant is the holder of a Subclass 471 (Trade Skills Training) visa who has completed the apprenticeship for which the visa was granted.
- 857.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).
- 857.213 Each of the following is satisfied:
 - (a) the applicant has been nominated by an employer, in accordance with subregulation 5.19 (4), for an appointment in the business of that employer;
 - (b) the applicant
 - (i) in the case of an applicant who is taken, under regulation 2.08CA or 2.08CB, to have applied for an Employer Nomination (Residence) (Class BW) visa:

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- (A) had not turned 45 at the time of the application for a Skilled — New Zealand Citizen (Residence) (Class DB) or Skilled — Independent Overseas Student (Residence) (Class DD) visa; and
 - (B) has vocational English; and
 - (C) has a diploma (within the meaning of subregulation 2.26A (6)), or a higher qualification, that is, unless the appointment is exceptional, relevant to that appointment; or
- (ia) if the applicant is mentioned in subparagraph 1114A (2) (a) (iii) or (iv) of Schedule 1:
- (A) the applicant was less than 45 at the time of the application for a Skilled (Residence) (Class VB) visa or a Skilled (Migrant) (Class VE) visa; and
 - (B) the applicant has competent English; and
 - (C) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or
- (ii) in any other case:
- (A) unless exceptional circumstances apply, has not turned 45; and
 - (B) unless exceptional circumstances apply, has functional English; and
 - (C) unless exceptional circumstances apply, has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification, that is relevant to the appointment;
- (c) if it is mandatory in Australia that a person:
- (i) hold a licence of a particular kind; or
 - (ii) hold registration of a particular kind; or
 - (iii) be a member (or a member of a particular kind) of a particular professional body;
- to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become,

the holder of the licence, the holder of the registration,
or a member of the body.

857.214 If the appointment is an approved appointment, the period
that has elapsed since it became an approved appointment
does not exceed 6 months.

857.216 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional)
 (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored)
 visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored)
 visa; or
- (b) the last substantive visa held by the applicant since last
 entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional)
 (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored)
 visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored)
 visa;

the applicant has substantially complied with the conditions
of that visa.

857.22 Criteria to be satisfied at time of decision

857.221 The appointment mentioned in paragraph 857.213 (a):

- (a) has been approved; and
- (b) has not been withdrawn; and
- (c) continues to satisfy the criteria for approval; and
- (d) is still available to the applicant.

Note See regulation 5.19 for the criteria for approval of the appointment.

857.222 The Minister is satisfied that the appointment mentioned in
paragraph 857.213 (a) will provide the employment referred
to in the relevant employer nomination.

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- 857.223 (1) The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — public interest criterion 4019.
- (2) The applicant also satisfies:
- (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (ii) if the applicant resides or proposes to reside in a participating State or Territory; public interest criterion 4007; or
 - (b) if paragraph (a) does not apply — public interest criterion 4005.
- 857.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 857 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (1AA) Each member of the family unit of the applicant is a person who also satisfies:
- (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or

- (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (ii) if the applicant resides or proposes to reside in a participating State or Territory;
public interest criterion 4007; or
 - (b) if paragraph (a) does not apply — public interest criterion 4005.
- (1A) Each member of the family unit of the applicant who is an applicant for a Subclass 857 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 857 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) either:
 - (i) if:
 - (A) the applicant resides or proposes to reside in a participating State or Territory; or
 - (B) the member was the holder, at the time of application, of:
 - (I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (II) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (III) a Subclass 487 (Skilled — Regional Sponsored) visa;satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
 - (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 857.226 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 857.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

857.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

857.31 Criteria to be satisfied at time of application

- 857.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Employer Nomination (Residence) (Class BW) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 857.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 857.312 Any nomination given in respect of that other person includes the applicant.
- 857.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

857.314 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has complied with the conditions of that visa.

857.32 Criteria to be satisfied at time of decision

857.321

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (***the non-dependent holder***) who, having satisfied the primary criteria, is the holder of a Subclass 857 visa.
- (3) The applicant meets the requirements of this subclause if:
 - (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;

(iii) a dependent child of the applicant or of the non-dependent holder;

has suffered family violence committed by the non-dependent holder.

(4) The applicant meets the requirements of this subclause if:

- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
- (b) the spouse or de facto partner meets the requirements of subclause (3); and
- (c) the applicant has made a combined application with the non-dependent holder; and
- (d) the spouse or de facto partner has been granted a Subclass 857 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

857.322 (1) The applicant satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — public interest criterion 4019.

(2) The applicant also satisfies:

- (a) if the applicant:
 - (i) resides or proposes to reside in a participating State or Territory; or
 - (ii) was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;

public interest criterion 4007; or

- (b) if paragraph (a) does not apply — public interest criterion 4005.

857.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

857.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

857.4 Circumstances applicable to grant

857.411 If the applicant:

- (a) was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application; or
- (b) is a member of the family unit of a person who was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa by reason of satisfying the primary criteria for the grant of the visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

857.412 In any other case, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

857.5 When visa is in effect

857.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

857.6 Conditions: Nil.

857.7 Way of giving evidence

857.711 No evidence need be given.

857.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 858 Distinguished Talent

858.1 Interpretation

Note There are no interpretation provisions specific to this Part.

858.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

858.21 Criteria to be satisfied at time of application

- 858.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);

- (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL)
(also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 858.212 (1) The applicant meets the requirements of subclause (2) or (4).
- (2) The applicant:
- (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:
 - (i) a profession;
 - (ii) a sport;
 - (iii) the arts;
 - (iv) academia and research; and
 - (b) is still prominent in the area; and
 - (c) would be an asset to the Australian community; and
 - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and
 - (e) produces a completed approved form 1000; and
- Note* An approved form 1000 requires the applicant's record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:
- (a) an Australian citizen; or
 - (b) an Australian permanent resident; or
 - (c) an eligible New Zealand citizen; or
 - (d) an Australian organisation;
- who has a national reputation in relation to the area.

- (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application — would be of exceptional benefit to the Australian community.
- (4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:
 - (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
 - (b) the Director-General of Security;the applicant has provided specialised assistance to the Australian Government in matters of security.

858.22 Criteria to be satisfied at time of decision

858.221 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

858.223 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 858 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 858 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

858.224 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 858.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 858.226 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

858.3 Secondary criteria

Note 1 These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2 For an applicant for a Distinguished Talent (Residence) (Class BX) visa who has not turned 18, subregulation 1.12 (7) sets out a specific definition of *member of the family unit* in addition to the operation of subregulation 1.12 (1). For an applicant who has turned 18, see subregulation 1.12 (1).

858.31 Criteria to be satisfied at time of application

- 858.311 The applicant is a member of the family unit of a person who:
 - (a) has applied for a Distinguished Talent (Residence) (Class BX) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 858.21;and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 858.312 Any sponsorship or nomination given in respect of that other person includes the applicant.

858.32 Criteria to be satisfied at time of decision

- 858.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 858 visa.
- (3) The applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 858 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

- 858.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 858.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 858.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

858.4 Circumstances applicable to grant

- 858.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

858.5 When visa is in effect

- 858.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

858.6 Conditions: Nil.

858.7 Way of giving evidence

- 858.711 No evidence need be given.
- 858.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 859 Designated Parent

859.1 Interpretation

Note *aged parent*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *balance of family test* is defined in regulation 1.05. There are no interpretation provisions specific to this Part.

859.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

859.21 Criteria to be satisfied at time of application

859.211 The applicant is nominated for the grant of the visa by a child of the applicant who:

- (a) has turned 18; and
- (b) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.

859.212 (1) The applicant:

- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (b) made a valid application for a Parent (Residence) (Class BP) visa in the period from 1 November 1998 to the end of 30 March 1999.
- (2) A decision to grant, or to refuse to grant, the Parent (Residence) (Class BP) visa was not made in that period.
- (3) The application for the Parent (Residence) (Class BP) visa has not been withdrawn.

859.22 Criteria to be satisfied at time of decision

859.221 The applicant is an aged parent of the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in clause 859.211.

- 859.222 The applicant continues to satisfy the criterion in clause 859.211.
- 859.223 The applicant satisfies the balance of family test.
- 859.224 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 859.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 859.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 859 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 859 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 859.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

859.3 Secondary criteria

Note If a person satisfies the primary criteria, members of the family unit of that person are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

859.31 Criteria to be satisfied at time of application

- 859.311 The applicant is a member of the family unit of an applicant for a Subclass 859 visa mentioned in clause 859.212, and the

Minister has not decided to grant or refuse to grant the visa to that other applicant.

859.32 Criteria to be satisfied at time of decision

- 859.321 The person referred to in clause 859.311 of whom the applicant is the spouse or de facto partner, or of whose family unit the applicant is a member, is the holder of a Subclass 859 visa, having satisfied the primary criteria.
- 859.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 859.323 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 859.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

859.4 Circumstances applicable to grant

- 859.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.
- Note* The second instalment of the visa application charge (if any) must be paid before the visa can be granted.

859.5 When visa is in effect

- 859.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

859.6 Conditions: Nil.

859.7 Way of giving evidence

859.711 Visa label affixed to a passport.

Subclass 861 Skilled — Onshore Independent New Zealand Citizen

861.1 Interpretation

861.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and ***diploma*** have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For ***relevant assessing authority*** and ***skilled occupation***, see regulation 1.03.

Note 2 For ***vocational English***, see regulation 1.15B.

861.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

861.21 Criteria to be satisfied at time of application

861.210 The application must be made before 1 September 2007.

-
- 861.212 The applicant has nominated a skilled occupation in his or her application.
- 861.213 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification

in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
- (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

861.214 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.

861.22 Criteria to be satisfied at time of decision

861.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

861.222 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained

in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

- 861.223 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

- 861.224 The applicant has vocational English.
- 861.225 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.
- 861.226 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 861.227 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 861.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 861 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 861 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

- 861.230 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 861.231 Approval of the application would not result in either:
- (a) the number of Subclass 861 visas granted in a financial year exceeding the maximum number of Subclass 861 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 861) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 861.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

861.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

861.31 Criteria to be satisfied at time of application

- 861.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 861.21.

861.32 Criteria to be satisfied at time of decision

- 861.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 861 visa.
- 861.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 861.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 861.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 861.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

861.4 Circumstances applicable to grant

- 861.411 The applicant must be in Australia when the visa is granted.

861.5 When visa is in effect

- 861.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

861.6 Conditions: Nil.

861.7 Way of giving evidence

- 861.711 No evidence need be given.
- 861.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 862 Skilled — Onshore Australian-sponsored New Zealand Citizen

862.1 Interpretation

862.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and ***diploma*** have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For ***relevant assessing authority*** and ***skilled occupation***, see regulation 1.03.

Note 2 For ***vocational English***, see regulation 1.15B.

862.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

862.21 Criteria to be satisfied at time of application

862.210 The application must be made before 1 September 2007.

862.211 The applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 862 visa, has one of the following relationships to a person (the ***sponsor***) who has turned 18 and is an Australian

citizen, an Australian permanent resident or an eligible New Zealand citizen:

- (a) a parent;
- (b) a child or a step-child who is not a dependent child of the sponsor;
- (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
- (ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
- (d) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece.

862.212 The applicant is sponsored by the sponsor.

862.215 The applicant has nominated a skilled occupation in his or her application.

862.216 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
- (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.

(2) Subclause (1) does not apply to an applicant if:

- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a

- course of study of at least 2 years at that institution while the applicant was present in Australia;
- (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;

- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

862.217 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.

862.22 Criteria to be satisfied at time of decision

862.221 The sponsorship referred to in clause 862.212 has been approved by the Minister and is still in force.

862.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

862.224 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

862.225 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these Regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

862.226 The applicant has vocational English.

862.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.

862.228 If the applicant does not satisfy the criteria in clauses 862.223, 862.224, 862.226 and 862.227:

- (a) the applicant satisfies the criterion specified in clause 862.225 because of regulation 2.27A; and
 - (b) the applicant's spouse or de facto partner:
 - (i) continues to satisfy the criteria in each of clauses 862.214, 862.215 and 862.216; and
 - (ii) satisfies the criteria in clauses 862.223, 862.224, 862.226 and 862.227.
- 862.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 862.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 862.231 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 862 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 862 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 862.232 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 862.233 Approval of the application would not result in either:
- (a) the number of Subclass 862 visas granted in a financial year exceeding the maximum number of Subclass 862

visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or

- (b) the number of visas of particular classes (including Subclass 862) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.

862.234 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

862.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

862.31 Criteria to be satisfied at time of application

862.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 862.21.

862.312 The sponsorship referred to in clause 862.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

862.32 Criteria to be satisfied at time of decision

862.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 862 visa.

862.322 The sponsorship referred to in clause 862.312 has been approved by the Minister and is still in force.

862.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

- 862.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 862.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 862.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

862.4 Circumstances applicable to grant

- 862.411 The applicant must be in Australia when the visa is granted.

862.5 When visa is in effect

- 862.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

862.6 Conditions: Nil.

862.7 Way of giving evidence

- 862.711 No evidence need be given.
- 862.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 863 Skilled — Onshore Designated Area-sponsored New Zealand Citizen

863.1 Interpretation

863.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree has the meaning given in subregulation 2.26A (6).

diploma has the meaning given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For **designated area**, **relevant assessing authority** and **skilled occupation**, see regulation 1.03.

Note 2 For **vocational English**, see regulation 1.15B.

863.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

863.21 Criteria to be satisfied at time of application

863.210 The application must be made before 1 September 2007.

863.211 The applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 863 visa, has one of the following relationships to a person (the **sponsor**) who has turned 18 and is an Australian

citizen, an Australian permanent resident or an eligible New Zealand citizen:

- (a) a parent;
- (b) a child or a step-child who is not a dependent child of the sponsor;
- (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
- (ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
- (d) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
- (e) a grandchild or first cousin.

863.212 The applicant is sponsored by the sponsor.

863.213 The sponsor:

- (a) is resident in a designated area; and
- (b) was resident in one or other of the designated areas throughout the period of 12 months immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of business or recreation).

863.216 The applicant has nominated a skilled occupation in his or her application.

863.217 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 6 months in the period of 12 months immediately before the day on which the application was made; or
- (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made.

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- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses

of study undertaken over a total of at least 2 years while the applicant was present in Australia;

- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

863.219 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.

863.22 Criteria to be satisfied at time of decision

863.221 The sponsorship referred to in clause 863.212 has been approved by the Minister and is still in force.

863.222 The sponsor is still resident in a designated area.

863.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

863.225 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

863.226 Either the applicant has vocational English, or:

- (a) he or she has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
- (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for

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- suitable English-language training for applicants to whom this paragraph applies; and
- (c) the Minister is satisfied that he or she has paid any fee or charge for that training.
- 863.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.
- 863.228 Despite clauses 863.224, 863.225, 863.226 and 863.227, the applicant satisfies the criteria in each of those clauses if:
- (a) the applicant satisfied the criteria in clause 863.218 at the time of application; and
- (b) the applicant's spouse or de facto partner continues to satisfy the criteria in each of clauses 863.215, 863.216 and 863.217; and
- (c) the applicant's spouse or de facto partner satisfies the criteria in each of clauses 863.224, 863.225, 863.226 and 863.227.
- 863.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 863.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 863.231 Each member of the family unit of the applicant who is an applicant for a Subclass 863 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 863.232 Each member of the family unit of the applicant who is not an applicant for a Subclass 863 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
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- 863.233 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 863.234 Approval of the application would not result in either:
- (a) the number of Subclass 863 visas granted in a financial year exceeding the maximum number of Subclass 863 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 863) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 863.235 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

863.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

863.31 Criteria to be satisfied at time of application

- 863.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 863.21.
- 863.312 The sponsorship referred to in clause 863.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

863.32 Criteria to be satisfied at time of decision

- 863.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 863 visa.
- 863.322 The sponsorship referred to in clause 863.312 has been approved by the Minister and is still in force.
- 863.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 863.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 863.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 863.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

863.4 Circumstances applicable to grant

- 863.411 The applicant must be in Australia when the visa is granted.

863.5 When visa is in effect

- 863.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

863.6 Conditions: Nil.

863.7 Way of giving evidence

- 863.711 No evidence need be given.

863.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 864 Contributory Aged Parent

864.1 Interpretation

864.111 In this Part, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa means a person:

- (a) who, at the time of application, holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
- (b) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
- (c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application.

Note Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa and settled are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

864.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

864.21 Criteria to be satisfied at time of application

- 864.211 (1) The applicant is:
- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or

- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies criterion 3002.

(2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 864 (Contributory Aged Parent) visa.

864.212 The applicant is:

- (a) the aged parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
- (ab) the holder of a substituted Subclass 676 visa, and is the parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
- (b) a person:
 - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (ii) who is no longer the parent of the child because the child has died; and
 - (iii) who is not the parent of another child; or
- (c) a person:
 - (i) who is the holder of a substituted Subclass 676 visa; and
 - (ii) who was, before he or she was granted the substituted Subclass 676 visa, the holder of a Subclass 884 (Contributory) Aged Parent (Temporary) visa that ceased to be in effect; and
 - (iii) who is no longer the parent of the child because the child has died; and
 - (iv) who is not the parent of another child; or

- (d) a person:
 - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (ii) who, immediately before he or she was granted the Subclass 884 (Contributory Aged Parent (Temporary)) visa, was the holder of a substituted Subclass 676 visa.

- 864.213
- (1) The applicant is:
 - (a) sponsored in accordance with subclause (2) or (3); or
 - (b) taken, under subclause (4), to be sponsored in accordance with this clause; or
 - (c) satisfies the criterion in paragraph 864.212 (c).
 - (2) If the child has turned 18, the applicant is sponsored by:
 - (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
 - (3) If the child has not turned 18, the applicant is sponsored by:
 - (a) the child's cohabiting spouse, if the spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or

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- (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.
 - (4) The applicant is taken to be sponsored in accordance with this clause if:
 - (a) the applicant:
 - (i) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or
 - (ii) both:
 - (A) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 676 visa at the time of application; and
 - (b) the person who sponsored the applicant for the Subclass 884 (Contributory Aged Parent (Temporary)) visa dies before the Subclass 884 (Contributory Aged Parent (Temporary)) visa ceases to be in effect; and
 - (c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).
- 864.214 For an applicant who, at the time of application, is neither:
- (a) the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; nor
 - (b) the holder of a substituted Subclass 676 visa;
- the applicant satisfies the balance of family test.
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864.22 Criteria to be satisfied at time of decision

864.221 (1) If the applicant met the requirement in paragraph 864.212 (ab) at the time of application, the applicant continues to be the parent of the child mentioned in that paragraph.

(2) If the applicant met the requirement in paragraph 864.212 (c) at the time of application, the applicant is not the parent of a child other than the child mentioned in subparagraph 864.212 (c) (iii).

(3) If the applicant met another requirement in clause 864.212 at the time of application, the applicant continues to meet the requirement.

864.222 For an applicant who satisfies the criterion in paragraph 864.213 (1) (a) or (b), if a sponsorship of the kind mentioned in subclause 864.213 (2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:

- (a) the sponsor at the time of application; or
- (b) another sponsor who meets the requirements set out in subclause 864.213 (2) or (3);

whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 864.213 (2) or (3).

864.222A If clause 864.222 does not apply:

- (a) the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; and
- (b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 864 (Contributory Aged Parent) visa; and
- (c) there is no other sponsor available who meets the requirements set out in subclause 864.213 (2) or (3).

864.223 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was ...	the criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4009, 4010 and 4019; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate

864.224 If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant:

- (a) satisfies public interest criteria 4001, 4002 and 4003; and
- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (b) has undergone any health checks that the Minister considers appropriate.

864.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

864.226 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

864.227 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant

who is an applicant for a Subclass 864 (Contributory Aged Parent) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and
- (b) if the member of the family unit has previously been in Australia — must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	<ul style="list-style-type: none"> (a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019 	5001, 5002 and 5010
2	was the holder of a substituted Subclass 676 visa at the time of application	<ul style="list-style-type: none"> (a) 4001, 4002, 4003, 4009 and 4010; and (b) either: <ul style="list-style-type: none"> (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate; and (c) if the applicant had turned 18 at the time of application — 4019 	5001, 5002 and 5010

864.228 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 864 (Contributory Aged Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

864.229 If a person (the **additional applicant**):
(a) is a member of the family unit of the applicant; and
(b) has not turned 18; and
(c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

864.230 If the applicant has previously made a valid application for another parent visa:
(a) the application has been:
(i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
(ii) withdrawn; and

- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

864.231 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

864.3 Secondary criteria

864.31 Criteria to be satisfied at time of application

864.311 Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 864.21; or
- (b) each of the following applies:
 - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
 - (A) has applied for a Contributory Aged Parent (Residence) (Class DG) visa; and
 - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 864.21;
 - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

864.312 One of the following applies:

- (a) the sponsorship mentioned in subclause 864.213 (2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 864.213 (4);
- (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application and:
 - (i) the contributory parent newborn child's parent was granted a Subclass 864 (Contributory Aged Parent) visa on the basis of meeting paragraph 864.222 (b); or
 - (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 864 (Contributory Aged Parent) visa died after that visa was granted.

864.32 Criteria to be satisfied at time of decision

- 864.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 864 (Contributory Aged Parent) visa.
- 864.322 One of the following applies:
- (a) the sponsorship, mentioned in paragraph 864.222 (a), that includes sponsorship of the applicant:
 - (i) has been approved by the Minister in relation to the applicant; and
 - (ii) is still in force in relation to the applicant;
 - (b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 864.222 (b) at the time of decision, and the applicant meets those requirements at the time of decision;
 - (c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 864.312 (c).
- 864.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 864.324 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	4004, 4005, 4009 and 4010

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate
864.325	If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.	
864.326	If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.	
864.327	The Minister is satisfied that: (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.	
864.328	If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.	
864.329	If the applicant has previously made a valid application for another parent visa: (a) the application has been: (i) finally determined (within the meaning of subsection 5 (9) of the <i>Migration Act 1958</i>); or (ii) withdrawn; and	

- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

864.330 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

864.4 Circumstances applicable to grant

864.411 The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

864.5 When visa is in effect

864.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

864.6 Conditions: Nil.

864.7 Way of giving evidence

864.711 No evidence need be given.

864.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 866 Protection

866.1 Interpretation

866.111 In this Part:

Refugees Convention means the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees.

866.112 For the purposes of this Part, a person (**A**) is a member of the same family unit as another person (**B**) if:

- (a) A is a member of B's family unit; or
- (b) B is a member of A's family unit; or
- (c) A and B are members of the family unit of a third person.

866.2 Primary criteria

Note All applicants must satisfy the primary criteria.

866.21 Criteria to be satisfied at time of application

- 866.211 The applicant claims to be a person to whom Australia has protection obligations under the Refugees Convention and:
- (a) makes specific claims under the Refugees Convention; or
 - (b) claims to be a member of the same family unit as a person who:
 - (i) has made specific claims under the Refugees Convention; and
 - (ii) is an applicant for a Protection (Class XA) visa.

866.22 Criteria to be satisfied at time of decision

- 866.221 (1) The Minister:
- (a) is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention; or
 - (b) is satisfied that:
 - (i) the applicant is a member of the same family unit as an applicant mentioned in paragraph (a); and
 - (ii) the applicant mentioned in paragraph (a) has been granted a Protection (Class XA) visa.
- 866.223 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- 866.224 The applicant:
- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or

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- (c) is a person:
- (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

866.224A A relevant medical practitioner:

- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under clause 866.223; and
 - (ii) the radiological report (if any) required under clause 866.224 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

866.224B If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

866.225 The applicant:

- (a) satisfies public interest criteria 4001, 4002 and 4003A; and

- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 866.226 The Minister is satisfied that the grant of the visa is in the national interest.
- 866.227 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant, or a member of the family unit of the applicant, is not a person who has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary Safe Haven (Class UJ) visa as provided for in regulation 2.07AC.
- (3) The applicant meets the requirements of this subclause if section 91K of the Act does not apply to the applicant's application because of a determination made by the Minister under subsection 91L (1) of the Act.
- 866.230 If the applicant is a child referred to in paragraph 2.08 (1) (b):
- (a) the applicant is a member of the same family unit as an applicant mentioned in paragraph 866.221 (a); and
- (b) the applicant mentioned in paragraph 866.221 (a) has been granted a Subclass 866 (Protection) visa.
- 866.231 The applicant has not been made an offer of a permanent stay in Australia as described in item 3 or 4 of the table in subregulation 2.07AQ (3).
- 866.232 The applicant does not hold a Resolution of Status (Class CD) visa.

866.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

866.4 Circumstances applicable to grant

- 866.411 The applicant must be in Australia.

866.5 When visa is in effect

866.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

866.6 Conditions: Nil.

866.7 Way of giving evidence

866.711 No evidence need be given.

866.712 If evidence is given, to be given by a label affixed to a valid passport, valid Convention travel document or an approved form.

Subclass 880 Skilled — Independent Overseas Student

880.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

880.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

880.21 Criteria to be satisfied at time of application

880.210 The application must be made before 1 September 2007.

880.211 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

880.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

- 880.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.
- 880.214 The Minister is satisfied that the applicant's declaration under paragraph 1128CA (3) (l) of Schedule 1 is true.
- 880.215 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128CA (3) (l) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.
- 880.216 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

880.22 Criteria to be satisfied at time of decision

- 880.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 880.222 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

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- 880.222A In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 880.223 The applicant has vocational English.
- 880.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 880.21, or to meet the requirements of item 1128CA of Schedule 1, was false or misleading in a material particular.
- 880.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 880.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 880 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 880 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 880.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

- 880.229 Approval of the application would not result in either:
- (a) the number of Subclass 880 visas granted in a financial year exceeding the maximum number of Subclass 880 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 880) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 880.230 (1) A relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 880.231 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 880.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

880.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

880.31 Criteria to be satisfied at time of application

- 880.311 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 880.312 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.
- 880.313 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

880.32 Criteria to be satisfied at time of decision

- 880.321 The applicant is a member of the family unit of, and made a combined application with, a person who, having satisfied the primary criteria, is the holder of a Subclass 880 visa.
- 880.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 880.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 880.325 If an applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 880.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

880.4 Circumstances applicable to grant

- 880.411 The applicant must be in Australia when the visa is granted.

880.5 When visa is in effect

- 880.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

880.6 Conditions: Nil.

880.7 Way of giving evidence

- 880.711 No evidence need be given.
- 880.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 881 Skilled — Australian-sponsored Overseas Student

881.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

881.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

881.21 Criteria to be satisfied at time of application

- 881.210 The application must be made before 1 September 2007.

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- 881.211 The Minister is satisfied that the applicant's declaration under paragraph 1128BA (3) (i) of Schedule 1 is true.
- 881.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 881.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 881.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.
- 881.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraph 1128BA (3) (l) of Schedule 1.
- 881.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.
- 881.22 Criteria to be satisfied at time of decision**
- 881.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.
- 881.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
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881.224 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these Regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

881.224A In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
- (b) complied with the conditions of that visa.

881.225 The applicant has vocational English.

881.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 881.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.

881.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

881.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 881 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 881 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

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- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 881.230 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 881.231 Approval of the application would not result in either:
- (a) the number of Subclass 881 visas granted in a financial year exceeding the maximum number of Subclass 881 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 881) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 881.232 (1) A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse or de facto partner, as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 881.233 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

- 881.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

881.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

881.31 Criteria to be satisfied at time of application

- 881.311 The applicant is a member of the family unit of, and made a combined application with, a person who seeks to satisfy the primary criteria.
- 881.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 881.313 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 881.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

881.32 Criteria to be satisfied at time of decision

- 881.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 881 visa.
- 881.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.
- 881.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 881.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 881.326 If the applicant is at least 16 years old, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 881.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

881.4 Circumstances applicable to grant

- 881.411 The applicant must be in Australia when the visa is granted.

881.5 When visa is in effect

- 881.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

881.6 Conditions: Nil.

881.7 Way of giving evidence

- 881.711 No evidence need be given.

881.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 882 Skilled — Designated Area-sponsored Overseas Student

882.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

882.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

882.21 Criteria to be satisfied at time of application

882.210 The application must be made before 1 September 2007.

882.211 The Minister is satisfied that the applicant's declaration under paragraph 1128BA (3) (i) of Schedule 1 is true.

882.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

882.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.

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- 882.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.
- 882.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraphs 1128BA (3) (l) and (m) of Schedule 1.
- 882.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

882.22 Criteria to be satisfied at time of decision

- 882.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.
- 882.222 The sponsor is still resident in a designated area.
- 882.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 882.225 Either the applicant has vocational English, or:
- (a) has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
 - (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that he or she has paid any fee or charge for that training.
- 882.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 882.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.

- 882.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.229 Each member of the family unit of the applicant who is an applicant for a Subclass 882 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.230 Each member of the family unit of the applicant who is not an applicant for a Subclass 882 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 882.231 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 882.232 Approval of the application would not result in either:
- (a) the number of Subclass 882 visas granted in a financial year exceeding the maximum number of Subclass 882 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 882) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 882.233 (1) A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse or de facto partner, as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.

(2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.

882.234 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

882.235 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

882.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

882.31 Criteria to be satisfied at time of application

882.311 The applicant is a member of the family unit of, and made a combined application with, a person who seeks to satisfy the primary criteria.

882.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

882.313 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;

- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.

882.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

882.32 Criteria to be satisfied at time of decision

882.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 882 visa.

882.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

882.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

882.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

882.326 If the applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

882.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

882.4 Circumstances applicable to grant

882.411 The applicant must be in Australia when the visa is granted.

882.5 When visa is in effect

882.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

882.6 Conditions: Nil.

882.7 Way of giving evidence

882.711 No evidence need be given.

882.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 883 Skilled — Designated
Area-sponsored (Residence)**

883.1 Interpretation

Note 1 For *designated area*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

883.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

883.21 Criteria to be satisfied at time of application

883.210 The application must be made before 1 September 2007.

883.211 The applicant is sponsored by a person (the *sponsor*):

- (a) who is 18 or more; and
- (b) who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
- (c) to whom the applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 883 visa, has 1 of the following relationships:
 - (i) a parent;
 - (ii) a child or a step-child who is not a dependent child of the sponsor;
 - (iii) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;

- (iv) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
 - (v) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
 - (vi) a grandchild or first cousin.
- 883.212 The applicant must have lived in a designated area for a total of at least 2 years while being the holder of:
 - (a) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) a Bridging A (Class WA) visa or a Bridging B (Class WB) visa granted because the applicant made a valid application for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
- 883.213 The applicant must have undertaken a total of at least 12 months full time work in a designated area while being the holder of:
 - (a) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) a Bridging A (Class WA) visa or a Bridging B (Class WB) visa granted because the applicant made a valid application for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
- 883.22 Criteria to be satisfied at time of decision**
- 883.221 The sponsorship given with the applicant's application under paragraph 1134 (3) (f) of Schedule 1 has been approved by the Minister and is still in force.
- 883.222 The applicant has vocational English.
- 883.223 No evidence has become available that the information given or used as part of the assessment of eligibility of the applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa is false or misleading in a material particular.
- 883.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

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- 883.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 883.227 The applicant, and all of the applicants included in the application, have complied with the conditions of any Skilled — Designated Area-sponsored (Provisional) (Class UZ) visas held.
- 883.228 Each member of the family unit of the applicant who is an applicant for a Skilled — Designated Area-sponsored (Residence) (Class CC) visa is a person who:
- (a) either:
 - (i) if, at the time of the application, the member of the family unit was the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (ii) in any other case — satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 883.229 Each member of the family unit of the applicant who is not an applicant for a Skilled — Designated Area-sponsored (Residence) (Class CC) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) if, at the time of the application, the member of the family unit was not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; and
 - (c) if, at the time of application, the member of the family unit was the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to

require the person to undergo assessment in relation to that criterion.

- 883.230 If a person (the ***additional applicant***):
- (a) is a member of the family unit of the applicant; and
 - (b) is under 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 883.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

883.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

883.31 Criteria to be satisfied at time of application

- 883.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 883.21.
- 883.312 The sponsorship given for the person who satisfies the primary criteria under paragraph 1134 (3) (f) of Schedule 1 includes sponsorship of the applicant.

883.32 Criteria to be satisfied at time of decision

- 883.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Skilled — Designated Area-sponsored (Residence) (Class CC) visa.
- 883.322 The sponsorship referred to in clause 883.312 has been approved by the Minister and is still in force.

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- 883.324 The applicant satisfies:
- (a) either:
 - (i) if the applicant was, at the time of application, the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (ii) in any other case — public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia — special return criteria 5001, 5002 and 5010.
- 883.325 If the applicant is under 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 883.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

883.4 Circumstances applicable to grant

- 883.411 Applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

883.5 When visa is in effect

- 883.511 Permanent visa permitting the holder to travel to, enter and remain in Australia for a period of 5 years from the date of grant.

883.6 Conditions: Nil.

883.7 Way of giving evidence

883.711 No evidence need be given.

883.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 884 Contributory Aged Parent
(Temporary)**

884.1 Interpretation

Note Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa and settled are defined in regulation 1.03, balance of family test is defined in regulation 1.05, parent is defined in subsection 5 (1) of the Act (also see regulation 1.14A), de facto partner is defined in section 5CB of the Act (also see regulation 1.09A), and spouse is defined in section 5F of the Act (also see regulation 1.15A).

884.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

884.21 Criteria to be satisfied at time of application

- 884.211 (1) The applicant is:
- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies criterion 3002.

(2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 884 (Contributory Aged Parent (Temporary)) visa.

- 884.212 (1) The applicant is:
- (a) either:
 - (i) the aged parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (ii) the holder of a substituted Subclass 676 visa and the parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; and
 - (b) sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if the spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or

- (b) a person who:
 - (i) is a relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (d) a community organisation.

884.213 If the applicant is not the holder of a substituted Subclass 676 visa, the applicant satisfies the balance of family test.

884.22 Criteria to be satisfied at time of decision

884.221 The applicant continues to satisfy the criterion in subclause 884.212 (1).

884.222 A sponsorship of the kind mentioned in clause 884.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 884.212.

884.224 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

884.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

884.226 Each member of the family unit of the applicant who is an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and
- (b) if the member of the family unit has previously been in Australia — must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

884.227 Each member of the family unit of the applicant who is not an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa must satisfy the public interest criteria mentioned in the item in the table that applies to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

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- 884.228 If a person (the ***additional applicant***):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 884.229 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or

- (C) judicial review proceedings (including proceedings on appeal);
- the applicant has withdrawn all applications for the review or review proceedings.

884.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

884.3 Secondary criteria

884.31 Criteria to be satisfied at time of application

884.311 Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 884.21; or
- (b) each of the following applies:
 - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
 - (A) has applied for a Contributory Aged Parent (Temporary) (Class UU) visa; and
 - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 884.21;
 - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

884.312 A sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

884.32 Criteria to be satisfied at time of decision

884.321 Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

884.322 One of the following applies:

- (a) a sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:
 - (i) is in force; and
 - (ii) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.
- (b) the applicant is a contributory parent newborn child who is sponsored by the person who sponsored the contributory parent newborn child's parent for a Subclass 884 (Contributory Aged Parent (Temporary)) visa or a Subclass 864 (Contributory Aged Parent) visa, and the contributory parent newborn child's sponsorship has been approved by the Minister;
- (c) the applicant is a contributory parent newborn child who is taken to be sponsored in accordance with clause 884.322A.

884.322A A contributory parent newborn child is taken to be sponsored if:

- (a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 864.213 (4); or
- (b) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) the parent is the holder of a Subclass 864 (Contributory Aged Parent) visa at the time of the contributory parent newborn child's application;
 - (ii) the person who sponsored the parent for the Subclass 864 (Contributory Aged Parent) visa has died; or

- (c) the following criteria apply in relation to the contributory parent newborn child's parent:
- (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
 - (A) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa;
 - (ii) the person who sponsored the parent for the Subclass 884 (Contributory Aged Parent (Temporary)) visa has died.

884.323 For an applicant who is not a contributory parent newborn child, the applicant satisfies the criteria mentioned for the applicant in an item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 884.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

884.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

884.325 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and

-
- (b) any of the following has occurred in relation to the application for that visa:
- (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

884.326 If the applicant:

- (a) is not a contributory parent newborn child; and
- (b) has previously been in Australia;

the applicant satisfies special return criteria 5001, 5002 and 5010.

884.327 If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.

884.328 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

884.4 Circumstances applicable to grant

884.411 If the applicant is not a contributory parent newborn child, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

884.412 If the applicant is a contributory parent newborn child, the applicant may be in Australia or outside Australia when the visa is granted.

884.5 When visa is in effect

884.511 If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

884.512 If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

884.6 Conditions: Nil.

884.7 Way of giving evidence

884.711 No evidence need be given.

884.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 885 Skilled — Independent

885.1 Interpretation

885.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 For *Australian study requirement*, see regulation 1.15F.

Note 2 For *competent English*, see regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

885.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

885.21 Criteria to be satisfied at time of application

- 885.211 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant met the requirements of subitem 1136 (4) of Schedule 1, and:
- (a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made; and
- (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.
- (3) The applicant met the requirements of subitem 1136 (5) of Schedule 1, and:
- (a) if the applicant holds a Subclass 476 (Skilled — Recognised Graduate) visa, the qualification used to

obtain that visa is closely related to the applicant's nominated skilled occupation; or

- (b) if the applicant holds a Subclass 485 (Skilled — Graduate) visa, each degree, diploma or trade qualification used to satisfy the Australian study requirement to obtain that visa is closely related to the applicant's nominated skilled occupation.

(4) The applicant met the requirements of subitem 1136 (6) of Schedule 1, and:

- (a) the applicant must have completed the apprenticeship for which the Subclass 471 (Trade Skills Training) visa was granted; and
- (b) the apprenticeship is closely related to the applicant's nominated skilled occupation.

885.213 The applicant has competent English.

885.214 The application is accompanied by evidence that:

- (a) the applicant; and
- (b) each person included in the application who is at least 16;

has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.

885.215 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.

885.22 Criteria to be satisfied at time of decision

885.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

- 885.222 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 885.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1136 of Schedule 1; or
 - (b) to satisfy Subdivision 885.21; or
 - (c) to satisfy clause 885.221; or
 - (d) to obtain the skills assessment mentioned in subclause 885.222 (1);
- was false or misleading in a material particular.
- 885.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 885.225 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 885.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 885 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) satisfies special return criteria 5001, 5002 and 5010.

- 885.227 Each member of the family unit of the applicant, who is not an applicant for a Subclass 885 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 885.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 885.229 Grant of the visa would not result in either:
- (a) the number of Subclass 885 visas granted in a financial year exceeding the maximum number of Subclass 885 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 885) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 885.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

885.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

885.31 Criteria to be satisfied at time of application

885.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 885.21 and made a combined application with that person.

885.32 Criteria to be satisfied at time of decision

885.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 885 visa.

885.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

885.323 The applicant satisfies special return criteria 5001, 5002 and 5010.

885.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

885.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

885.4 Circumstances applicable to grant

885.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

885.5 When visa is in effect

885.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

885.6 Conditions: Nil.

885.7 Way of giving evidence

885.711 No evidence need be given.

885.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 886 Skilled — Sponsored

886.1 Interpretation

886.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 For *Australian study requirement*, see regulation 1.15F.

Note 2 For *competent English*, see regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

886.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

886.21 Criteria to be satisfied at time of application

886.211 (1) The applicant meets the requirements of subclause (2), (3) or (4).

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- (2) The applicant met the requirements of subitem 1136 (4) of Schedule 1, and:
- (a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made; and
 - (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.
- (3) The applicant met the requirements of subitem 1136 (5) of Schedule 1, and:
- (a) if the applicant holds a Subclass 476 (Skilled — Recognised Graduate) visa, the qualification used to obtain that visa is closely related to the applicant's nominated skilled occupation; or
 - (b) if the applicant holds a Subclass 485 (Skilled — Graduate) visa, each degree, diploma or trade qualification used to satisfy the Australian study requirement to obtain that visa applicant is closely related to the applicant's nominated skilled occupation.
- (4) The applicant met the requirements of subitem 1136 (6) of Schedule 1, and:
- (a) the applicant must have completed the apprenticeship for which the Subclass 471 (Trade Skills Training) visa was granted; and
 - (b) the apprenticeship is closely related to the applicant's nominated skilled occupation.
- 886.213 The applicant has competent English.
- 886.214 The application is accompanied by evidence that:
- (a) the applicant; and
 - (b) each person included in the application who is at least 16;
- has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.

886.215 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.

886.22 Criteria to be satisfied at time of decision

886.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

886.222 (1) Either:

- (a) if the applicant was nominated by a State or Territory government agency in accordance with subitem 1136 (3A) of Schedule 1 at the time of making the application — the requirements of subclause (2) are met; or
- (b) if the applicant was sponsored in accordance with subitem 1136 (3B) of Schedule 1 at the time of making the application — the requirements of subclause (3) are met.

(2) The Minister has accepted the nomination of the applicant by a State or Territory government agency mentioned in subitem 1136 (3A) of Schedule 1.

(3) All of the following apply:

- (a) the applicant, and all persons included in the application, are sponsored by a person who:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and

-
- (iv) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 886 visa), as:
- (A) a parent; or
 - (B) a child or a step-child; or
 - (C) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
 - (D) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
 - (E) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece;
- (b) the sponsorship was made:
- (i) on Form 1277 (Internet); or
 - (ii) on Form 1277:
 - (A) by posting the form (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this sub-subparagraph; or
 - (B) by having the form delivered by a courier service to the address specified by the Minister in an instrument in writing for this sub-subparagraph;
- and the Minister has accepted the sponsorship.
- 886.223 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 886.224 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1136 of Schedule 1; or
 - (b) to satisfy Subdivision 886.21; or
 - (c) to satisfy clause 886.221; or
-

- (d) to obtain the skills assessment mentioned in subclause 886.223 (1);
was false or misleading in a material particular.
- 886.225 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 886.226 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 886.227 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 886 visa, is a person who:
 - (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) satisfies special return criteria 5001, 5002 and 5010.
- 886.228 Each member of the family unit of the applicant, who is not an applicant for a Subclass 886 visa, is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 886.229 If a person (the ***additional applicant***):
 - (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 886.230 Grant of the visa would not result in either:
 - (a) the number of Subclass 886 visas granted in a financial year exceeding the maximum number of Subclass 886

visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or

- (b) the number of visas of particular classes (including Subclass 886) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

886.231 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

886.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

886.31 Criteria to be satisfied at time of application

886.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 886.21 and made a combined application with that person.

886.32 Criteria to be satisfied at time of decision

886.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 886 visa.

886.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 886.323 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 886.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 886.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

886.4 Circumstances applicable to grant

- 886.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

886.5 When visa is in effect

- 886.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

886.6 Conditions: Nil.

886.7 Way of giving evidence

- 886.711 No evidence need be given.
- 886.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 887 Skilled — Regional

887.1 Interpretation

887.111 (1) In this Part:

specified regional area, for an applicant who applies for a Subclass 887 visa, means a part of Australia identified in accordance with subclause (2) or (3).

(2) If an applicant applies for the Subclass 887 visa on the basis of having held:

- (a) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
- (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8549; or
- (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8549; or
- (d) a Subclass 475 (Skilled — Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and
 - (iii) the visa was granted on the basis that the requirements of subclause 475.222 (3) were satisfied; or
- (e) a Subclass 487 (Skilled — Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and
 - (iii) the visa was granted on the basis that the requirements of subclause 487.225 (3) were satisfied;

a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant,

was specified by the Minister in an instrument in writing under item 6701 of Schedule 6.

(3) If an applicant applies for the Subclass 887 visa on the basis of having held:

- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8539; or
- (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8539; or
- (d) a Subclass 475 (Skilled — Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) in making the application, the requirements of subitem 1228 (3A) of Schedule 1 were satisfied; and
 - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; or
- (e) a Subclass 487 (Skilled — Regional Sponsored) visa in relation to which:
 - (i) the application for the visa was made on or after 1 July 2010; and
 - (ii) in making the application, the requirements of subitem 1229 (3A) of Schedule 1 were satisfied; and
 - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010;

a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6A1001 of Schedule 6A.

887.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

887.21 Criteria to be satisfied at time of application

- 887.211 The applicant meets the requirements set out in subitem 1136 (7) of Schedule 1.
- 887.212 The applicant must have lived in a specified regional area for a total of at least 2 years as the holder of 1 or more of the following visas:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa;
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa;
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (e) a Bridging A (Class WA) visa, or a Bridging B (Class WB) visa, that was granted on the basis of a valid application for:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled (Provisional) (Class VC) visa.
- 887.213 The applicant must have worked full-time in a specified regional area for a total of at least 1 year as the holder of 1 or more of the visas mentioned in clause 887.212.

887.22 Criteria to be satisfied at time of decision

- 887.221 (1) While the applicant was the holder of:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- the applicant must have substantially complied with the conditions to which that visa is or was subject.
- (2) While a person included in the application (other than the applicant) was the holder of:

- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- that person must have substantially complied with the conditions to which that visa is or was subject.
- 887.222 No evidence has become available since the time of application that the information given or used:
- (a) to satisfy any part of the assessment of eligibility of the applicant for:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (b) to meet the requirements of subitem 1136 (7) of Schedule 1; or
 - (c) to satisfy Subdivision 887.21;
- was false or misleading in a material particular.
- 887.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 887.224 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 887.225 Each member of the family unit of the applicant, who is also an applicant for a Subclass 887 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and

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- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (b) satisfies special return criteria 5001, 5002 and 5010.
- 887.226 Each member of the family unit of the applicant, who is not an applicant for a Subclass 887 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 887.227 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) is less than 18; and
- (c) made a combined application with the applicant; public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 887.228 Grant of the visa would not result in either:
- (a) the number of Subclass 887 visas granted in a financial year exceeding the maximum number of Subclass 887 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 887) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 887.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

887.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

887.31 Criteria to be satisfied at time of application

887.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 887.21 and made a combined application with that person.

887.32 Criteria to be satisfied at time of decision

887.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 887 visa.

887.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

887.323 The applicant satisfies special return criteria 5001, 5002 and 5010.

887.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

887.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

887.4 Circumstances applicable to grant

887.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

887.5 When visa is in effect

887.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

887.6 Conditions: Nil.

887.7 Way of giving evidence

887.711 No evidence need be given.

887.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 890 Business Owner

890.1 Interpretation

Note 1 *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

Note 4 There are no interpretation provisions specific to this Part.

890.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

890.21 Criteria to be satisfied at time of application

890.211 (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.

- (2) For each business to which subclause (1) applies:
 - (a) an Australian Business Number has been obtained; and
 - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.
- 890.212 The assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
 - (a) have a net value of at least AUD100 000; and
 - (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.
- 890.213 In the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD300 000.
- 890.214 In the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (a) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 12 months; and
 - (b) provided those hours of employment to an employee, or employees, who:
 - (i) were not the applicant or a member of the family unit of the applicant; and
 - (ii) were Australian citizens, Australian permanent residents or New Zealand passport holders.

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- 890.215 The net value of the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is, and has been throughout the 12 months immediately before the application is made, at least AUD250 000.
- 890.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.
- 890.217 The applicant has been in Australia as the holder of 1 of the visas mentioned in paragraph 1104B (3) (d) of Schedule 1 for a total of at least 1 year in the 2 years immediately before the application is made.

890.22 Criteria to be satisfied at time of decision

- 890.221 The applicant continues to satisfy the criteria in clauses 890.211, 890.215 and 890.216.
- 890.222 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 890.223 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 890 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 890 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4007.

890.224 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

890.225 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

890.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

890.31 Criteria to be satisfied at time of application

890.311 The applicant is a member of the family unit of, and has made a combined application with, a person who satisfies the primary criteria in Subdivision 890.21.

890.32 Criteria to be satisfied at time of decision

890.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 890 visa.

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- 890.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4007.
- 890.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 890.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

890.4 Circumstances applicable to grant

- 890.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

890.5 When visa is in effect

890.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

890.6 Conditions

890.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

890.7 Way of giving evidence

890.711 No evidence need be given.

890.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 891 Investor

891.1 Interpretation

891.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note 1 AUD, fiscal year, ownership interest and qualifying business are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

891.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

891.21 Criteria to be satisfied at time of application

- 891.211 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.
- 891.212 The applicant has been in Australia as the holder of a Subclass 162 (Investor (Provisional)) visa for a total of at least 2 years in the 4 years immediately before the application is made.
- 891.213 The applicant genuinely has a realistic commitment, after the grant of a Subclass 891 visa, to continue to maintain business or investment activity in Australia.

891.22 Criteria to be satisfied at time of decision

- 891.221 The applicant continues to satisfy the criteria in clauses 891.211 and 891.213.
- 891.222 The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 162 (Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.
- 891.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 891.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 891 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 891 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

(3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4007.

891.225 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

891.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

891.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

891.31 Criteria to be satisfied at time of application

891.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 891.21.

891.32 Criteria to be satisfied at time of decision

891.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and

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- (b) having satisfied the primary criteria, is the holder of a Subclass 891 visa.
- 891.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.
- 891.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 891.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

891.4 Circumstances applicable to grant

- 891.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

891.5 When visa is in effect

891.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

891.6 Conditions

891.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

891.7 Way of giving evidence

891.711 No evidence need be given.

891.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 892 State/Territory Sponsored Business Owner

892.1 Interpretation

Note 1 **appropriate regional authority**, **AUD**, **ownership interest** and **qualifying business** are defined in regulation 1.03 and **main business** is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that **member of the family unit** has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

Note 4 There are no interpretation provisions specific to this Part.

892.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

892.21 Criteria to be satisfied at time of application

- 892.211 (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.
- (2) For each business to which subclause (1) applies:
- (a) an Australian Business Number has been obtained; and
 - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.
- 892.212 Unless the appropriate regional authority has determined that there are exceptional circumstances, the applicant meets at least 2 of the following requirements:
- (a) in the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 1 full-time employee over that period of 12 months; and
 - (ii) provided those hours of employment to an employee, or employees, who:
 - (A) were not the applicant or a member of the family unit of the applicant; and
 - (B) were Australian citizens, Australian permanent residents or New Zealand passport holders;
 - (b) the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) have a net value of at least AUD250 000; and

- (ii) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and
 - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together;
 - (c) the assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
 - (i) have a net value of at least AUD75 000; and
 - (ii) had a net value of at least AUD75 000 throughout the period of 12 months ending immediately before the application is made; and
 - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.
- 892.213 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if, in the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD200 000.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant meets at least 2 of the requirements set out in paragraphs 892.212 (a), (b) and (c); and
 - (b) the applicant resides in, and operates the applicant's main business or businesses in Australia in, an area specified in an instrument in writing made by the Minister for this paragraph; and
 - (c) the appropriate regional authority has determined that there are exceptional circumstances for this subclause.
- 892.214 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities

that are of a nature that is not generally acceptable in Australia.

892.215 If the applicant is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, one or more of the following circumstances has existed for a total of at least 1 year in the period of 2 years ending immediately before the application is made:

- (a) the applicant has been in Australia as the holder of one of the visas mentioned in paragraph 1104B (3) (f) of Schedule 1;
- (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2;
- (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2.

892.216 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have lived for at least 2 years in total, as the holder of 1 or more:

- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid

application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.216A If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:

- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.217 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

892.22 Criteria to be satisfied at time of decision

892.221 The applicant:

- (a) continues to satisfy the criteria in clauses 892.211 and 892.214; and

-
- (b) if the applicant met the requirements of paragraph 892.212 (b), continues to meet those requirements.
- 892.222 (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- 892.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 892.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 892 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 892 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
- (b) a Subclass 457 (Business (Long Stay)) visa; or
- (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
- (b) a Subclass 457 (Business (Long Stay)) visa; or

- (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;

satisfies public interest criterion 4007.

892.225 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

892.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

892.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

892.31 Criteria to be satisfied at time of application

892.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 892.21.

892.312 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

892.32 Criteria to be satisfied at time of decision

- 892.321 The applicant is a member of the family unit of a person who:
- (a) is the person with whom a combined application was made; and
 - (b) having satisfied the primary criteria, is the holder of a Subclass 892 visa.
- 892.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4007.
- 892.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 892.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

892.4 Circumstances applicable to grant

892.411 If the applicant:

- (a) was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application; or
- (b) is a member of the family unit of a person who was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa by reason of satisfying the primary criteria for the grant of the visa at the time of application;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

892.412 If clause 892.411 does not apply:

- (a) if the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted; and
- (b) if the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

892.5 When visa is in effect

892.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

892.6 Conditions

892.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

892.7 Way of giving evidence

892.711 No evidence need be given.

892.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 893 State/Territory Sponsored Investor

893.1 Interpretation

893.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for the purposes of this Part.

Note 1 ***appropriate regional authority, AUD, fiscal year, ownership interest*** and ***qualifying business*** are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that ***member of the family unit*** has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

893.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

893.21 Criteria to be satisfied at time of application

893.211 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

893.212 The applicant has been resident, as the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located for a total of at

least 2 years in the 4 years immediately before the application is made.

- 893.213 The applicant genuinely has a realistic commitment, after the grant of a Subclass 893 visa, to continue to maintain business or investment activity in Australia.

893.22 Criteria to be satisfied at time of decision

- 893.221 The applicant continues to satisfy the criteria in clauses 893.211 and 893.213.

- 893.222 (1) The applicant is sponsored by an appropriate regional authority.

(2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

- 893.223 The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

- 893.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 893.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 893 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 893 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

(3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the

holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4007.

893.226 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

893.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

893.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

893.31 Criteria to be satisfied at time of application

893.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 893.21.

893.32 Criteria to be satisfied at time of decision

893.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 893 visa.

- 893.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.
- 893.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 893.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

893.4 Circumstances applicable to grant

- 893.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

893.5 When visa is in effect

893.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

893.6 Conditions

893.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

893.7 Way of giving evidence

893.711 No evidence need be given.

893.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 956 Electronic Travel Authority (Business Entrant — Long Validity)

956.1 Interpretation

Note No interpretation provisions specific to this Part.

956.2 Primary criteria

956.21 [No criteria to be satisfied at time of application]

956.22 Criteria to be satisfied at time of decision

956.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

956.222 The applicant states an intention only to visit Australia temporarily for business purposes.

956.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

956.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

956.3 Secondary criteria

956.31 [No criteria to be satisfied at time of application]

956.32 Criteria to be satisfied at time of decision

956.321 The applicant is included in the passport of a person who satisfies the primary criteria.

956.322 The applicant states an intention only to visit Australia temporarily.

956.323 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

956.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

956.4 Circumstances applicable to grant

956.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

956.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

956.5 When visa is in effect

956.511 Temporary visa:

(a) either:

(i) coming into effect on grant; or

(ii) providing that if:

(A) the applicant holds another substantive visa, other than:

(I) a Special Purpose visa; or

(IA) a Subclass 651 (eVisitor) visa; or

- (II) a Subclass 676 Tourist (Short Stay) visa;
or
- (III) a Subclass 676 (Tourist) visa; or
- (IV) a Subclass 686 Tourist (Long Stay) visa;
or
- (V) a Subclass 976 Electronic Travel Authority (Visitor) visa; or
- (VI) a Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity) visa; or
- (VII) a Subclass 988 (Maritime Crew) visa;
that is in effect at the date of grant; and
- (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;
this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder:
 - (i) to travel to, and enter, Australia on multiple occasions for the life of the holder's passport; and
 - (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period in this visa, this visa will not come into effect.

956.512 If the visa holder holds another substantive visa at the time of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

956.6 Conditions

956.611 Conditions 8112, 8201, 8527 and 8528 must be imposed.

956.7 Way of giving evidence

956.711 No evidence need be given.

Subclass 976 Electronic Travel Authority (Visitor)

976.1 Interpretation

Note There are no interpretation provisions specific to this Part.

976.2 Primary criteria

Note All applicants must satisfy the primary criteria.

976.21 [No criteria to be satisfied at time of application]

976.22 Criteria to be satisfied at time of decision

976.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

976.222 The applicant states an intention only to visit Australia temporarily for tourism purposes.

976.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

976.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

976.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

976.4 Circumstances applicable to grant

976.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

976.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

976.5 When visa is in effect

976.511 Temporary visa:

- (a) either:
 - (i) coming into effect on grant; or
 - (ii) providing that if:
 - (A) the applicant holds another substantive visa, other than:
 - (I) a Special Purpose visa; or
 - (II) a Subclass 988 (Maritime Crew) visa; that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;that this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder:
 - (i) to travel to, and enter, Australia on multiple occasions within 12 months from the date of the grant of the visa, or within the life of the holder's passport, whichever is the shorter; and
 - (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

976.512 If the visa holder holds another substantive visa at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

976.6 Conditions

976.611 Conditions 8101, 8201, 8527 and 8528 must be imposed.

976.7 Way of giving evidence

976.711 No evidence need be given.

Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity)

977.1 Interpretation

Note No interpretation provisions specific to this Part.

977.2 Primary criteria

977.21 [No criteria to be satisfied at time of application]

977.22 Criteria to be satisfied at time of decision

977.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

977.222 The applicant states an intention only to visit Australia temporarily for business purposes.

977.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

977.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

977.3 Secondary criteria

977.31 [No criteria to be satisfied at time of application]

977.32 Criteria to be satisfied at time of decision

977.321 The applicant is included in the passport of a person who satisfies the primary criteria.

977.322 The applicant states an intention only to visit Australia temporarily.

977.323 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

977.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

977.4 Circumstances applicable to grant

977.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

977.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

977.5 When visa is in effect

977.511 Temporary visa:

(a) either:

(i) coming into effect on grant; or

(ii) providing that if:

(A) the applicant holds another substantive visa, other than:

(I) a Special Purpose visa; or

(IA) a Subclass 651 (eVisitor) visa; or

(II) a Subclass 676 Tourist (Short Stay) visa;
or

(III) a Subclass 676 (Tourist) visa; or

(IV) a Subclass 686 Tourist (Long Stay) visa;
or

(V) a Subclass 976 Electronic Travel Authority (Visitor) visa; or

(VI) a Subclass 988 (Maritime Crew) visa;

that is in effect at the date of grant; and

(B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;

this visa comes into effect when the other substantive visa ceases; and

(b) permitting the holder:

- (i) to travel to, and enter, Australia on 1 or more occasions, as specified by the Minister, within 12 months from the date of the grant of the visa, or within the life of the holder's passport, whichever is the shorter; and
- (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

977.512 If the visa holder holds another substantive visa at the time of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

977.6 Conditions

977.611 Conditions 8112, 8201, 8527 and 8528 must be imposed.

977.7 Way of giving evidence

977.711 No evidence need be given.

Subclass 988 Maritime Crew

Note This Subclass is created in accordance with section 38B of the Act.

988.1 Interpretation

Note *member of the crew* and *non-military ship* are defined in regulation 1.03.

988.111 In this Part, a person is taken to have signed on to a non-military ship in Australia on the day notified to the Department by the Australian Customs Service.

Note For this Part, a person will sign on to a ship in Australia after:

- (a) travelling to Australia on another visa in order to join a ship as a member of the crew; or

- (b) joining the ship in Australia after signing off another ship in Australia; or
- (c) joining another ship after the ship on which the person travelled to Australia is imported under section 49A or 71A of the *Customs Act 1901*.

988.112 In this Part, a person is taken to have signed off a non-military ship on the day notified to the Department by the Australian Customs Service.

988.113 In this Part, a non-military ship is imported under section 49A of the *Customs Act 1901* or entered for home consumption under 71A of that Act on the day notified to the Department by the Australian Customs Service.

988.2 Primary criteria

Note The spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship, need satisfy only the secondary criteria.

988.21 Criteria to be satisfied at time of application

988.211 The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
 - (ii) in relation to whom the offer is current; and
 - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

988.22 Criteria to be satisfied at time of decision

988.221 The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and

- (ii) in relation to whom the offer is current; and
 - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.
- 988.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.
- 988.223 The applicant satisfies special return criteria 5001 and 5002.
- 988.224 The Minister is satisfied that the applicant's expressed intention to enter and remain in Australia for the purpose of being a member of the crew of a non-military ship is genuine.
- 988.225 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

988.3 Secondary criteria

Note These criteria must be satisfied by the spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship.

988.31 [No criteria to be satisfied at time of application]

988.32 Criteria to be satisfied at time of decision

- 988.321 The applicant is:
 - (a) the spouse or de facto partner of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa; or
 - (b) a dependent child of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa.
- 988.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.

988.323 The applicant satisfies special return criteria 5001 and 5002.

988.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

988.4 Circumstances applicable to grant

988.411 The applicant may be in or outside Australia when the visa is granted.

988.5 When visa is in effect

988.511 Temporary visa coming into effect on grant.

988.512 The visa ceases to be in effect:

- (a) on the occurrence of the earliest of the circumstances mentioned in an item in the following table; and
- (b) at the time mentioned in the item:

Item	Circumstances	Time at which the visa ceases to have effect
1	Both of the following apply: <ul style="list-style-type: none">(a) the holder has entered Australia otherwise than as:<ul style="list-style-type: none">(i) a member of the crew serving on a non-military ship; or(ii) the spouse, de facto partner or a dependent child of a member of the crew serving on a non-military ship;	The end of the day or period worked out under paragraph (b) in column 2

Item	Circumstances	Time at which the visa ceases to have effect
	<p>(b) the holder has not signed on to a non-military ship as a member of the crew, or as a spouse, de facto partner or dependent child of a member of the crew, before the latest of:</p> <p>(i) 5 days after the day on which the holder last entered Australia; and</p> <p>(ii) if the holder last entered Australia for health or safety reasons that required the holder to enter Australia — 30 days after the day on which the holder last entered Australia; and</p> <p>(iii) if the holder holds another visa that is in effect — the day on which that other visa ceases</p>	
2	<p>Each of the following applies:</p> <p>(a) the holder has entered Australia;</p> <p>(b) the non-military ship in relation to which the holder is:</p> <p>(i) a member of the crew; or</p>	The end of the day or the longest period worked out under paragraph (c) or (d) in column 2

Item	Circumstances	Time at which the visa ceases to have effect
	<p>(ii) the spouse, de facto partner or a dependent child of a member of the crew;</p> <p>has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under 71A of that Act;</p> <p>(c) the holder has not signed on to another non-military ship as a member of the crew, or as the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person:</p> <p>(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption — that longer period</p> <p>(d) the person has not departed Australia before the end of the longest of the</p>	

Item	Circumstances	Time at which the visa ceases to have effect
	<p>following periods that applies to the person:</p> <p>(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;</p> <p>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption — that longer period;</p> <p>(iii) if the holder holds another visa that is in effect — the day on which that other visa ceases</p>	
3	<p>Each of the following applies:</p> <p>(a) the holder has entered Australia;</p> <p>(b) the holder has signed off a non-military ship as:</p> <p>(i) a member of the crew of the non-military ship; or</p>	<p>The end of the day or the longest period worked out under paragraph (c) or (d) in column 2</p>

Item	Circumstances	Time at which the visa ceases to have effect
	(ii) the spouse, de facto partner or dependent child of the spouse or de facto partner of a member of the crew of a non-military ship;	
	(c) the holder has not signed on to another non-military ship as a member of the crew or the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person:	
	(i) 5 days after the day on which the holder signed off the last ship;	
	(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia — that longer period;	
	(d) the holder has not departed Australia before the end of the longest of the following periods that applies to the person:	
	(i) 5 days after the day on which the holder signed off the last ship;	

Item	Circumstances	Time at which the visa ceases to have effect
	<ul style="list-style-type: none"> (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia — that longer period; (iii) if the holder holds another visa that is in effect — the day on which that other visa ceases 	
4	The end of a continuous period of 3 years starting when the visa is granted	At the end of the period of 3 years
5	Both of the following apply: <ul style="list-style-type: none"> (a) the holder is a person who satisfied the secondary criteria for the grant of the visa; (b) the maritime crew visa granted to the person who satisfied the primary criteria for the grant of the visa ceases to be in effect 	The end of the day on which the maritime crew visa granted to the holder who satisfied the primary criteria ceases to be in effect
6	Both of the following apply: <ul style="list-style-type: none"> (a) the holder also holds another visa; (b) the other visa is cancelled otherwise than under section 501, 501A or 501B of the Act 	At the end of the day on which the other visa is cancelled

988.6 Conditions

- 988.611 For an applicant who satisfies the primary criteria, condition 8113.
- 988.612 For an applicant who satisfies the secondary criteria, condition 8101.

988.7 Way of giving evidence

- 988.711 No evidence need be given.

Subclass 995 Diplomatic (Temporary)

995.1 Interpretation

- 995.111 In this Part:
international representative means a representative of an international organisation.

995.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 person. Other accompanying applicants for a visa of this subclass need satisfy only the secondary criteria.

995.21 [No criteria to be satisfied at time of application]

995.22 Criteria to be satisfied at time of decision.

- 995.221 The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant on the basis of the applicant being:
- (a) a diplomatic or consular representative; or
 - (b) an international representative.
- 995.222 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

995.3 Secondary criteria

995.31 [No criteria to be satisfied at time of application]

995.32 Criteria to be satisfied at time of decision

- 995.321 The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant to accompany a person (the *primary applicant*) who seeks to satisfy the primary criteria.
- 995.322 The primary applicant has satisfied the criteria for the grant of a visa as a primary applicant.
- 995.323 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

995.4 Circumstances applicable to grant

- 995.411 Applicant may be in the migration zone or outside Australia.

995.5 When visa is in effect

- 995.511 Temporary visa permitting the holder:
 - (a) to travel to and enter Australia until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia:
 - (i) if the visa was issued on the basis of the holder satisfying the primary criteria for the grant of the visa — for the duration of the holder's status as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or

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- (B) an international representative; or
 - (ii) if the visa was issued on the basis of the holder satisfying the secondary criteria for the grant of the visa — for the duration of the status of the person who satisfied the primary criteria as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
 - (B) an international representative; or
 - (iii) in any case — until an earlier date specified by the Minister.

995.6 Conditions

- 995.611 If the applicant satisfies the primary criteria, condition 8516.
- 995.612 If the applicant satisfies the secondary criteria, conditions 8502 and 8516.

995.7 Way of giving evidence

- 995.711 No evidence need be given.
- 995.712 If evidence is given, to be given by a label affixed to a valid passport.