



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 416 Special Program

416.1 Interpretation

Note No interpretation provisions specific to this Part.

416.2 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.

416.21 Criteria to be satisfied at time of application

Note If the applicant is outside Australia at time of application, there are no criteria to be satisfied at time of application.

416.211 If the applicant is in the migration zone at the time of application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a Subclass 771 visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

416.22 Criteria to be satisfied at time of decision

416.222 The Minister is satisfied that:

- (a) the applicant seeks to enter or remain in Australia to participate in an approved special program conducted by the special program sponsor in relation to the applicant; or

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- (d) the applicant has been invited to undertake seasonal work in Australia:
- (i) by an organisation approved by the Secretary for the purposes of this subparagraph; and
 - (ii) in accordance with a program for undertaking seasonal work approved by the Secretary for the purposes of this subparagraph.
- 416.222A If the applicant is an applicant to whom paragraph 416.222 (a) applies, the Minister is satisfied that:
- (a) a special program sponsor has agreed in writing to be the special program sponsor in relation to the applicant; and
 - (b) the special program sponsor is not barred from sponsoring the applicant under paragraph 140M (1) (c) of the Act; and
 - (c) either:
 - (i) there is no adverse information known to Immigration about the special program sponsor mentioned in paragraph (a) or a person associated with that special program sponsor; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the special program sponsor mentioned in paragraph (a) or a person associated with that special program sponsor.
- 416.222B The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity mentioned in clause 416.222.
- 416.222C The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 416.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4012, 4013 and 4014; and

- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4017 and 4018.
- 416.223A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 416.224 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 416.225 If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 416.226 If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 416.228 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
 - (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 416.229 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.

416.3 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.

416.31 Criteria to be satisfied at time of application

416.311 Both of the following:

- (a) the applicant is a member of the family unit of a person who has applied for a Subclass 416 visa (the *primary applicant*);
- (b) the primary applicant is not seeking to satisfy the criterion in paragraph 416.222 (d).

416.311A Subject to clause 416.311B, if paragraph 416.222 (a) applies to the member of the family unit who satisfies the primary criteria, the Minister is satisfied that the special program sponsor of the member of the family unit who satisfies the primary criteria has agreed in writing to be the special program sponsor in relation to the applicant.

416.311B Clause 416.311A does not apply to an applicant who is a member of the family unit of the person who satisfies the primary criteria, and that person made his or her application before 14 September 2009.

416.312 If the applicant is outside Australia at time of application and the application is made separately from that of the person who seeks to satisfy or has satisfied the primary criteria, that person is, or is expected soon to be, in Australia.

416.32 Criteria to be met at time of decision

416.321 The applicant continues to be a member of the family unit of a person who:

- (a) having satisfied the primary criteria, is the holder of a Subclass 416 visa; but
- (b) was not granted the visa on the basis of satisfying the criterion in paragraph 416.222 (d).

416.322 The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or

- (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 416.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (d) in the case of an applicant who has not turned 18 — satisfies public interest criteria 4017 and 4018.
- 416.324 If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 416.324A If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 416.324B The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 416.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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- 416.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 416.327 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.

416.4 Circumstances applicable to grant

- 416.411 If the applicant satisfies the criterion in paragraph 416.222 (d), the applicant must be outside Australia at the time of grant.
- 416.412 In any other case:
- (a) if the applicant was in the migration zone at time of application, the applicant must be in the migration zone, but not in immigration clearance, at the time of grant; and
 - (b) if the applicant was outside Australia at time of application, the applicant must be outside Australia at time of grant.

416.5 When visa is in effect

- 416.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

416.6 Conditions

- 416.611 (1) If the applicant satisfies the primary criteria, condition 8107 must be imposed.
- (2) If the applicant satisfies the criterion in paragraph 416.222 (d), conditions 8501 and 8503 must also be imposed.
- 416.611B If the applicant satisfies the primary or secondary criteria, condition 8501 must be imposed.

416.612 Any 1 or more of conditions 8106, 8301, 8303, 8403, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

416.7 Way of giving evidence

416.711 No evidence need be given.

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

Subclass 417 Working Holiday

417.1 Interpretation

417.111 In this Part:

regional Australia means a place specified by the Minister in an instrument in writing for the definition of *regional Australia* in subitem 1225 (5) of Schedule 1.

specified work means work of a kind specified by the Minister in an instrument in writing for the definition of *specified work* in subitem 1225 (5) of Schedule 1.

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in an instrument in writing under subparagraph 1225 (3) (b) (i) or (ii) of Schedule 1.

working holiday visa means a visa or entry permit of any of the following classes or kinds:

- (a) a visa that:
 - (i) was issued under the Migration (1989) Regulations; and
 - (ii) contained an endorsement describing the visa as a working holiday visa (code T18) or a working holiday visa (code number 417);
- (b) a class 417 (working holiday) visa and entry permit within the meaning of the Migration (1993) Regulations;
- (c) a Working Holiday (Temporary) (Class TZ) visa;

- (d) a visa that was granted:
 - (i) before 19 December 1989; and
 - (ii) in accordance with the law in force at the time; and
 - (iii) for the same purpose as a visa or permit mentioned in paragraph (a), (b) or (c).

Note **Internet application** is defined in regulation 1.03.

417.2 Primary criteria

Note All applicants must satisfy the primary criteria.

417.21 Criteria to be satisfied at time of application

- 417.211
- (1) The applicant satisfies the criteria in subclauses (2), (4) and (5).
 - (2) The applicant:
 - (b) has turned 18 but has not turned 31; and
 - (c) holds a working holiday eligible passport.
 - (4) The Minister is satisfied that the applicant:
 - (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
 - (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and
 - (ii) personal support for the purposes of a working holiday; and
 - (c) has a reasonable prospect of obtaining employment in Australia; and
 - (d) will not be accompanied by dependent children during his or her stay in Australia.
 - (5) If the applicant is, or has previously been, in Australia as the holder of a working holiday visa, the Minister is satisfied that the applicant has carried out specified work in regional Australia for a total period of at least 3 months as the holder of that visa.

417.22 Criteria to be satisfied at time of decision

- 417.221 (1) The applicant satisfies the criteria in subclauses (2) to (7).
- (2) The applicant:
- (a) continues to satisfy the criteria in paragraph 417.211 (2) (c) and subclauses 417.211 (4) and (5); and
 - (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4019.
- (3) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- (4) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (5) Approval of the application would not result in either:
- (a) the number of Subclass 417 visas granted in a financial year exceeding the maximum number of Subclass 417 visas, as determined by an instrument in writing, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 417, granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing, that may be granted in that financial year.
- (6) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (7) The Minister may waive the requirements of subclause (6) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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- 417.222 If the applicant is, or has previously been, in Australia as the holder of a working holiday visa:
- (a) the applicant has complied substantially with the conditions that applied to any visa held by the applicant; and
 - (b) the applicant has not previously held more than 1 working holiday visa in Australia.

417.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

417.4 Circumstances applicable to grant

- 417.411 If the applicant is not, and has not previously been, in Australia as the holder of a working holiday visa granted at any time, the applicant must be outside Australia at the time of grant.
- 417.412 If the applicant is, or has previously been, in Australia as the holder of a working holiday visa:
- (a) if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant; or
 - (b) if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

417.5 When visa is in effect

- 417.511 (1) If the applicant is outside Australia at the time of grant — temporary visa permitting the holder:
- (a) to travel to and enter Australia within 12 months after the date of grant of the visa; and
 - (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.
- (2) If:
- (a) the applicant is in Australia at the time of grant; and

- (b) the applicant holds a working holiday visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date that the visa mentioned in paragraph (b) would have otherwise ceased to be in effect.

- (3) If:

- (a) the applicant is in Australia at the time of grant; and
(b) the applicant does not hold a working holiday visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

417.6 Conditions

417.611 Conditions 8547 and 8548.

417.612 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8403, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

417.7 Way of giving evidence

417.711 No evidence need be given.

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

Subclass 419 Visiting Academic

419.1 Interpretation

Note No interpretation provisions specific to this Part.

419.2 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.

419.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

- 419.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) a Subclass 771 (Transit) visa; or
 - (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
 - (iv) a special purpose visa; or
 - (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

419.22 Criteria to be satisfied at time of decision

- 419.222 The Minister is satisfied that:
- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
 - (b) the nomination was made by a person who was a visiting academic sponsor at the time the nomination was approved; and
 - (c) the approval of the nomination has not ceased under regulation 2.75A; and
 - (d) the applicant:
 - (i) seeks to enter or remain in Australia to observe or participate in an Australian research project at the sponsoring Australian tertiary or research institution; and
 - (ii) will not be receiving a salary, scholarship or allowance (other than an allowance for living expenses in Australia and travel costs) from the visiting academic sponsor; and

- (e) either:
 - (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.
- 419.224A The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity for which the applicant was identified in the nomination.
- 419.224B The Minister is satisfied that the applicant has:
 - (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 419.225 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4012, 4017 and 4018.
- 419.225A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 419.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 419.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

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- 419.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 419.230 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 419.231 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.

419.3 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.

419.31 Criteria to be satisfied at time of application

- 419.311 The applicant is a member of the family unit of a person who has applied for a Subclass 419 visa.
- 419.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:
- (a) that person is, or is expected soon to be, in Australia; and

- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

419.32 Criteria to be met at time of decision

- 419.321 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 419 visa.
- 419.321A Subject to clause 419.321B, the Minister is satisfied that the visiting academic sponsor who has most recently identified the member of the family unit who satisfies the primary criteria in a nomination has agreed in writing to be the visiting academic sponsor in relation to the applicant.
- 419.321B Clause 419.321A does not apply to an applicant who is a member of the family unit of the person who satisfies the primary criteria, and that person made his or her application before 14 September 2009.
- 419.322 The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 419.322A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 419.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 419.324 If the application is made outside Australia and the applicant has previously been in Australia, he or she satisfies special return criteria 5001 and 5002.

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- 419.324A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 419.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 419.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 419.327 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.

419.4 Circumstances applicable to grant

- 419.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 419.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

419.5 When visa is in effect

- 419.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

419.6 Conditions

- 419.611 If the applicant meets the primary criteria, conditions 8103 and 8107.
- 419.611A If the applicant meets the primary or secondary criteria, condition 8501.
- 419.612 Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

419.7 Way of giving evidence

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

Subclass 420 Entertainment

420.1 Interpretation

Note *Arts Minister* is defined in regulation 1.03.

420.2 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.

420.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

- 420.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) a Subclass 771 (Transit) visa; or
 - (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
 - (iv) a special purpose visa; or

- (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

420.22 Criteria to be satisfied at time of decision

420.222 The Minister is satisfied that:

- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
- (b) the nomination was made by a person who was an entertainment sponsor at the time the nomination was approved; and
- (c) the approval of the nomination has not ceased under regulation 2.75A; and
- (d) the applicant seeks to enter or remain in Australia to work or participate in the nominated occupation, program or activity in relation to which the applicant is identified; and
- (e) either:
 - (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.

420.225A The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity for which the applicant was identified in the nomination.

420.225B The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or

- (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 420.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4012, 4017 and 4018.
- 420.226A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 420.227 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 420.228 If the applicant was outside Australia at the time of application and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 420.229 If the applicant is in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 420.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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- 420.232 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.

420.3 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.

420.31 Criteria to be satisfied at time of application

- 420.311 The applicant is a member of the family unit of a person who has applied for a Subclass 420 visa.
- 420.312 If the applicant was outside Australia at the time of application and the application was made separately from that of the person satisfying the primary criteria:
- (a) that person is, or is expected soon to be, in Australia;
and
 - (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

420.32 Criteria to be met at time of decision

- 420.321 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 420 visa.
- 420.322 The following criteria are satisfied:
- (a) if the member of the family unit who satisfies the primary criteria (the *primary member*) made his or her application on or after 14 September 2009 — the Minister is satisfied that the entertainment sponsor who most recently identified the primary member in a nomination has agreed in writing to be the entertainment sponsor in relation to the applicant;

- (b) if the primary member made his or her application before 14 September 2009 — the applicant is included in any sponsorship required in respect of the primary member.
- 420.323 The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 420.323A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 420.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 420.325 If the applicant was outside Australia at the time of application and the applicant has previously been in Australia, he or she satisfies special return criteria 5001 and 5002.
- 420.325A If the applicant is in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 420.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or

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- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 420.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 420.328 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.

420.4 Circumstances applicable to grant

- 420.411 If the applicant was in the migration zone at the time of application, the applicant must be in the migration zone at the time of grant.
- 420.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

420.5 When visa is in effect

- 420.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

420.6 Conditions

- 420.611 If the applicant meets the primary criteria, conditions 8107 and 8109.
- 420.611A If the applicant meets the primary or secondary criteria, condition 8501.
- 420.612 Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

420.7 Way of giving evidence

420.711 No evidence need be given.

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

Subclass 421 Sport

421.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

421.2 Primary criteria

421.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

421.211 If the applicant is in the migration zone at the time of application:

- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) a Subclass 771 (Transit) visa; or
 - (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
 - (iv) a special purpose visa; or
- (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

421.22 Criteria to be satisfied at time of decision

421.222 The Minister is satisfied that:

- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
- (b) the nomination was made by a person who was a sport sponsor or a party to a work agreement of a kind mentioned in subregulation 2.76 (3) at the time the nomination was approved; and
- (c) the approval of the nomination has not ceased under regulation 2.75A; and
- (d) the applicant seeks to enter or remain in Australia to work or participate in the nominated occupation, program or activity in relation to which the applicant is identified; and
- (e) if the nominated activity for which the applicant was identified in the nomination required a formal arrangement to be in place between the sport sponsor and the applicant — the agreement is still in place; and
- (f) either:
 - (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.

421.224B The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity for which the applicant was identified in the nomination.

421.224C The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or
- (b) access to adequate means to support himself or herself; taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.

- 421.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4012, 4017 and 4018.
- 421.225A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 421.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 421.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 421.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 421.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 421.232 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.

421.3 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.

421.31 Criteria to be satisfied at time of application

421.311 The applicant is a member of the family unit of a person who has applied for a Subclass 421 visa.

421.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

421.32 Criteria to be met at time of decision

421.321 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 421 visa.

421.322 The following criteria are satisfied:

- (a) if the member of the family unit who satisfies the primary criteria (the *primary member*) made his or her application on or after 14 September 2009 — the Minister is satisfied that the sport sponsor who most recently identified the primary member in a nomination has agreed in writing to be the sport sponsor in relation to the applicant;
- (b) if the primary member made his or her application before 14 September 2009 — the applicant is included in any sponsorship required in respect of the primary member.

- 421.323 The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 421.323A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 421.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 421.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 421.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 421.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 421.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 421.328 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.

421.4 Circumstances applicable to grant

- 421.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 421.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

421.5 When visa is in effect

- 421.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

421.6 Conditions

- 421.611 If the applicant satisfies the primary criteria, condition 8107.
- 421.611A If the applicant satisfies the primary or secondary criteria, condition 8501.
- 421.612 Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

421.7 Way of giving evidence

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

Subclass 422 Medical Practitioner

422.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

422.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The person seeking to satisfy the primary criteria must make an application for the visa before 1 July 2010. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

422.21 Criteria to be satisfied at time of application

Note If the applicant is outside Australia at time of application, there are no criteria to be satisfied at time of application.

422.211 If the applicant is in the migration zone at time of application, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Prospective Marriage (Temporary) (Class TO);
 - (I) Retirement (Temporary) (Class TQ);
 - (J) Supported Dependant (Temporary) (Class TW);
 - (K) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 427 (Domestic Worker (Temporary) — Executive);

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- (B) Subclass 457 (Business (Long Stay));
 - (C) Subclass 476 (Skilled — Recognised Graduate);
 - (D) Subclass 485 (Skilled — Graduate); or
- (b) the holder of:
- (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Student (Temporary) (Class TU);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
- (c) the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
- (d) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004 and 3005; or
- (e) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

422.22 Criteria to be satisfied at time of decision

422.221 If:

- (a) the applicant was outside Australia at time of application; or

- (b) the applicant was in the migration zone at time of application and the applicant does not hold a Subclass 422 visa;

the applicant satisfies the criteria in clauses 422.222 to 422.227B.

422.222 An applicant satisfies the requirements of this clause if:

- (a) the applicant's qualifications are recognised by the Medical Board of a State or Territory as entitling the applicant to practise as a medical practitioner in that State or Territory for the purposes of the position to which the application relates; and
- (b) the Minister is satisfied that:
- (i) labour market requirements have been met; and
 - (ii) the position to which the application relates is a full-time position; and
 - (iii) the applicant is to be adequately remunerated in the position, having regard to Australian conditions and levels of remuneration; and
 - (iv) the employment of the applicant in the position would benefit Australia; and
- (c) the applicant is sponsored by:
- (i) a person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (ii) a body operating in Australia;
being the prospective employer of the applicant; and
- (d) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2) and the sponsorship fee prescribed in regulation 5.38 has been paid.

422.223 If the applicant seeks to enter Australia in accordance with a labour agreement, the applicant establishes that:

- (a) the requirements of the labour agreement have been met; and
- (b) the applicant's skills and experience are suitable for the position to which the application relates.

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- 422.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 422.225 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 422.226 If the applicant was outside Australia at time of application and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 422.227 If, at time of application, the applicant was in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 422.227A If, at time of application, the applicant was in the migration zone and was also the holder of a student visa:
- (a) the applicant has successfully completed a course in Australia at diploma level (within the meaning of subregulation 2.26A (6)) or above; and
 - (b) the Minister is satisfied that:
 - (i) it has not been possible to find a person who is suitable for the position in which the applicant's intended employer proposes to employ the applicant; or
 - (ii) in the circumstances, the intended employer should not be required to seek a suitable employee in Australia; and
 - (c) the applicant is sponsored by an intended employer that is able to establish that a person with those skills is not reasonably available in Australia; and
 - (d) if the applicant is a private subsidised student:
 - (i) the sponsor establishes a strong case on economic grounds for the grant of the visa; and
 - (ii) the Minister is satisfied that it would not be detrimental to Australia's policies in respect of overseas students to grant the visa.

- 422.227B If, at time of application, the applicant was in the migration zone and was also the holder of an Electronic Travel Authority (Class UD), Long Stay (Visitor) (Class TN), Short Stay (Visitor) (Class TR), Tourist (Class TR), Visitor (Class TV), Working Holiday (Temporary) (Class TZ) or Subclass 456 (Business (Short Stay)) visa:
- (a) the applicant is sponsored by the applicant's intended employer; and
 - (b) the Minister is satisfied that:
 - (i) it has not been possible to find a person who is suitable for the position in which the applicant's intended employer proposes to employ the applicant; or
 - (ii) in the circumstances, the intended employer should not be required to seek a suitable employee in Australia.
- 422.228 If, at time of application, the applicant was in the migration zone and was also the holder of a Subclass 422 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the criteria for the grant of a Subclass 422 visa.
- 422.229 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 422.230 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.

422.3 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 on the basis of an application made before 1 July 2010.

422.31 Criteria to be satisfied at time of application

- 422.311 The applicant is a member of a family unit of a person who applied for a Subclass 422 visa before 1 July 2010.
- 422.312 If the applicant is outside Australia at time of application and the application is made separately from that of the member of the family unit who seeks to satisfy or has satisfied the primary criteria, that member of the family unit is, or is expected soon to be, in Australia.

422.32 Criteria to be met at time of decision

- 422.321 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 422 visa.
- 422.322 The applicant is included in the sponsorship required in respect of the person who satisfies the primary criteria.
- 422.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 422.326 If the applicant was outside Australia at time of application and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

- 422.326A If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 422.327 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 422.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 422.329 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.

422.4 Circumstances applicable to grant

- 422.411 If the applicant was in the migration zone at time of application, the applicant must be in the migration zone at the time of grant.
- 422.412 If the applicant was outside Australia at time of application, the applicant must be outside Australia at the time of grant.

422.5 When visa is in effect

422.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

422.6 Conditions

422.611 If the applicant meets the primary criteria, condition 8107.

422.611A If the applicant meets the primary or secondary criteria, condition 8501.

422.612 Any 1 or more of conditions 8106, 8301, 8303, 8403, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

422.7 Way of giving evidence

422.711 No evidence need be given.

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

Subclass 423 Media and Film Staff

423.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

423.2 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.

423.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

- 423.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) a Subclass 771 (Transit) visa; or
 - (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
 - (iv) a special purpose visa; or
 - (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

423.22 Criteria to be satisfied at time of decision

- 423.223 The Minister is satisfied that:
- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
 - (b) the nomination was made by a person who was an entertainment sponsor at the time the nomination was approved; and
 - (c) the approval of the nomination has not ceased under regulation 2.75A; and
 - (d) the applicant seeks to enter or remain in Australia to work or participate in the nominated occupation, program or activity in relation to which the applicant is identified; and
 - (e) either:
 - (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination

mentioned in paragraph (a) or a person associated with that person.

- 423.224A The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity for which the applicant was identified in the nomination.
- 423.224B The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 423.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4012, 4017 and 4018.
- 423.225A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 423.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 423.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 423.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 423.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

423.232 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.

423.3 Secondary criteria

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

423.31 Criteria to be satisfied at time of application

423.311 The applicant is a member of the family unit of a person who has applied for a Subclass 423 visa.

423.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

423.32 Criteria to be met at time of decision

423.321 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 423 visa.

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- 423.322 The following criteria are satisfied:
- (a) if the member of the family unit who satisfies the primary criteria (the *primary member*) made his or her application on or after 14 September 2009 — the Minister is satisfied that the entertainment sponsor who most recently identified the primary member in a nomination has agreed in writing to be the entertainment sponsor in relation to the applicant;
 - (b) if the primary member made his or her application before 14 September 2009 — the applicant is included in any sponsorship required in respect of the primary member.
- 423.323 The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 423.323A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 423.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 423.325 If the application is made outside Australia and if the applicant has previously been in Australia, satisfies special return criteria 5001 and 5002.
- 423.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

- 423.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 423.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 423.328 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.

423.4 Circumstances applicable to grant

- 423.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 423.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

423.5 When visa is in effect

- 423.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

423.6 Conditions

- 423.611 If the applicant meets the primary criteria, condition 8107.

423.611A If the applicant meets the primary or secondary criteria, condition 8501.

423.612 Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

423.7 Way of giving evidence

423.711 No evidence need be given.

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

Subclass 426 Domestic Worker (Temporary) — Diplomatic or Consular

426.1 Interpretation

426.111 In this Part:

current employer, in relation to the applicant, means the person whose household is the household in relation to employment in which the Subclass 426 visa was granted to the applicant.

426.2 Primary criteria

Note All applicants must satisfy the primary criteria.

426.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

426.211 If the application is made in the migration zone:

- (a) the applicant is the holder, having satisfied the primary criteria, of a Subclass 426 visa; or
- (b) the applicant is not the holder of a substantive visa; and
 - (i) the last substantive visa held by the applicant was a Subclass 426 visa; and

- (ii) the applicant satisfies Schedule 3 criteria 3003 and 3004.

426.22 Criteria to be satisfied at time of decision

426.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 426 visa;

the applicant satisfies the criteria in clauses 426.222 to 426.228.

426.222 If the application is made outside Australia, the applicant:

- (a) has turned 18; and
- (b) seeks to enter Australia to undertake full-time domestic duties in the household of a person who:
 - (i) is the holder of a Subclass 995 (Diplomatic (Temporary)) visa; and
 - (ii) is not a permanent resident of Australia; and
 - (iii) has entered into an employment agreement with the applicant in relation to those duties; and
- (c) is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

426.223 The application has the support in writing of the Foreign Minister.

426.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4019.

426.225 The applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

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

426.227 If the application is made in the migration zone, the Minister is satisfied that:

- (a) the applicant is undertaking, and while remaining in Australia will continue to undertake, full-time domestic

duties in the household of the applicant's current employer; or

- (b) the applicant seeks to remain in Australia to undertake full-time domestic duties in the household of a person (other than the applicant's current employer) who:
 - (i) is the holder of a Subclass 995 (Diplomatic (Temporary)) visa; and
 - (ii) has entered into an employment agreement with the applicant in relation to those duties.

426.228 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

426.229 If the application is made in the migration zone and the applicant was the holder of a Subclass 426 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 426 visa.

426.230 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.

426.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

426.4 Circumstances applicable to grant

426.411 If the application is made in the migration zone, the applicant must be in the migration zone at time of grant.

426.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

426.5 When visa is in effect

426.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

426.6 Conditions

426.611 Conditions 8110 and 8516.

426.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8522, 8525 and 8526 may be imposed.

426.7 Way of giving evidence

426.711 No evidence need be given.

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

Subclass 427 Domestic Worker (Temporary) — Executive

427.1 Interpretation

Note No interpretation provisions specific to this Part.

427.2 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.

427.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

427.211 If the applicant is in the migration zone at the time of application:

- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or

- (ii) a Subclass 771 (Transit) visa; or
- (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
- (iv) a special purpose visa; or
- (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

427.22 Criteria to be satisfied at time of decision

427.222 The Minister is satisfied that:

- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
- (b) the nomination was made by a person who was a domestic worker sponsor at the time the nomination was approved; and
- (c) the approval of the nomination has not ceased under regulation 2.75A; and
- (d) the applicant seeks to enter or remain in Australia to undertake full-time domestic duties in the private household of the domestic worker sponsor; and
- (e) either:
 - (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.

427.225A The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to undertake the duties for which the applicant was identified in the nomination.

- 427.225B The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 427.227 The applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.
- 427.228 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 427.228A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 427.229 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 427.230 If the application is made outside Australia, and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 427.232 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 427.234 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.

427.3 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.

427.31 Criteria to be satisfied at time of application

427.311 The applicant is a member of the family unit of a person who has applied for a Subclass 427 visa.

427.312 If the application is made outside Australia and the application is made separately from that of the family unit member satisfying the primary criteria:

- (a) that family unit member is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

427.32 Criteria to be met at time of decision

427.321 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 427 visa.

427.322 The following criteria are satisfied:

- (a) if the member of the family unit who satisfies the primary criteria (the *primary member*) made his or her application on or after 14 September 2009 — the Minister is satisfied that the domestic worker sponsor who most recently identified the primary member in a nomination has agreed in writing to be the domestic worker sponsor in relation to the applicant;
- (b) if the primary member made his or her application before 14 September 2009 — the applicant is included in any sponsorship required in respect of the primary member.

427.323 The Minister is satisfied that the applicant has:

- (a) adequate means to support himself or herself; or
- (b) access to adequate means to support himself or herself;

taking into account the applicant's work rights during the period of the applicant's stay in Australia.

- 427.323A The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 427.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 427.325 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 427.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 427.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 427.327 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.

427.4 Circumstances applicable to grant

- 427.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 427.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

427.5 When visa is in effect

427.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

427.6 Conditions

427.611 If the applicant meets the primary criteria, conditions 8107 and 8111.

427.611A If the applicant meets the primary or secondary criteria, condition 8501.

427.612 Any 1 or more of conditions 8106, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

427.7 Way of giving evidence

427.711 No evidence need be given.

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

Subclass 428 Religious Worker

428.1 Interpretation

Note No interpretation provisions specific to this Part.

428.2 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.

428.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

- 428.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa that is not:
 - (i) a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) a Subclass 771 (Transit) visa; or
 - (iii) a Subclass 995 (Diplomatic (Temporary)) visa; or
 - (iv) a special purpose visa; or
 - (b) the applicant:
 - (i) does not hold a substantive visa; and
 - (ii) the last substantive visa held by the applicant was not a visa mentioned in paragraph (a); and
 - (iii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

428.22 Criteria to be satisfied at time of decision

- 428.222 The Minister is satisfied that:
- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act; and
 - (b) the nomination was made by a person who was a religious worker sponsor or a party to a work agreement of a kind mentioned in subregulation 2.76 (4) at the time the nomination was approved; and
 - (c) the approval of the nomination has not ceased under regulation 2.75A; and
 - (d) the applicant seeks to enter or remain in Australia to be engaged on a full-time basis to participate in work or an activity:
 - (i) that is predominately non-profit in nature; and
 - (ii) that directly serves the religious objectives of the religious institution that is the religious worker sponsor; and
 - (e) either:
 - (i) there is no adverse information known to Immigration about the person who made the

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- approved nomination mentioned in paragraph (a) or a person associated with that person; or
- (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.
- 428.222B The Minister is satisfied that the applicant genuinely intends to stay temporarily in Australia to carry out the activity for which the applicant was identified in the nomination.
- 428.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) if the applicant has not turned 18 — satisfies public interest criteria 4012, 4017 and 4018.
- 428.225A The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's intended stay in Australia.
- 428.225B The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 428.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 428.227 If the application is lodged outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 428.228 The applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

- 428.230 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 428.231 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.

428.3 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.

428.31 Criteria to be satisfied at time of application

- 428.311 The applicant is a member of the family unit of a person who has applied for a Subclass 428 visa.
- 428.312 If the application is lodged outside Australia and the application is made separately from that of the person satisfying the primary criteria:
- (a) that person is, or is expected soon to be, in Australia; and
 - (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

428.32 Criteria to be met at time of decision

- 428.321 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 428 visa.
- 428.322 The following criteria are satisfied:
- (a) if the member of the family unit who satisfies the primary criteria (the *primary member*) made his or her application on or after 14 September 2009 — the Minister is satisfied that the religious worker sponsor who most recently identified the primary member in a nomination has agreed in writing to be the religious worker sponsor in relation to the applicant;
 - (b) if the primary member made his or her application before 14 September 2009 — the applicant is included in any sponsorship required in respect of the primary member.
- 428.322A The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 428.322B The applicant has given to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 428.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 428.324 If the application is lodged outside Australia and if the applicant has previously been in Australia, satisfies special return criteria 5001 and 5002.

428.324A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

428.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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

428.327 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.

428.4 Circumstances applicable to grant

428.411 If the application is made in the migration zone, the applicant is in the migration zone at the time of grant.

428.412 If the application is made outside Australia, the applicant is outside Australia at the time of grant.

428.5 When visa is in effect

428.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

428.6 Conditions

- 428.611 If the applicant satisfies the primary criteria, conditions 8107 and 8303.
- 428.611A If the applicant meets the primary or secondary criteria, condition 8501.
- 428.612 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

428.7 Way of giving evidence

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

Subclass 442 Occupational Trainee

442.1 Interpretation

- 442.111 In this Part:

completed, in relation to the principal course, for an award course means having met the academic requirements for its award, and for a non-award course means having met the course requirements.

Note The academic requirements for the award of an academic qualification do not include the formal conferral of the award. Therefore, a person can *complete* a principal course, for this Part, before the award is formally conferred.

principal course has the meaning given in regulation 1.40.

442.2 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.

442.21 Criteria to be satisfied at time of application

Note If the applicant is outside Australia, there are no criteria to be satisfied at time of application.

- 442.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa, other than:
 - (i) a Subclass 560 (Student) visa; or
 - (ii) a Subclass 562 (Iranian Postgraduate Student) visa; or
 - (iii) a Subclass 563 (Iranian Postgraduate Student Dependant) visa; or
 - (iv) a Subclass 571 (Schools Sector) visa; or
 - (v) a Subclass 576 (AusAID or Defence Sector) visa; or
 - (vi) a Subclass 771 (Transit) visa; or
 - (vii) a special purpose visa; or
 - (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a visa mentioned in subparagraphs (a) (i) to (vii); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

442.22 Criteria to be satisfied at time of decision

- 442.222 (1) The Minister is satisfied that:
- (a) the applicant is identified in a nomination of an occupation, a program or an activity approved under section 140GB of the Act, unless the occupational training is to be provided to the applicant by the Commonwealth; and
 - (b) if the occupational training is to be provided to the applicant by the Commonwealth — the occupational trainee sponsor has agreed in writing to be the occupational trainee sponsor in relation to the applicant; and
 - (c) the nomination mentioned in paragraph (a) was made by a person who was an occupational trainee sponsor at the time the nomination was approved; and

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- (d) the approval of the nomination mentioned in paragraph (a) has not ceased under regulation 2.75A; and
- (e) the applicant seeks to enter or remain in Australia to undertake the occupational training; and
- (f) either:
- (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.
- (2) For subclause (1), occupational training to be provided by the Commonwealth includes occupational training to be provided by:
- (a) a body corporate incorporated for a public purpose under an Act or regulations made under an Act; or
 - (b) an authority or body (other than a body corporate) established for a public purpose under an Act or regulations made under an Act.
- 442.223 The Minister is satisfied that occupational opportunities available to Australian citizens or permanent residents of Australia will not be adversely affected if the visa is granted.
- 442.224 The Minister is satisfied that the applicant is a genuine applicant for entry to Australia as an occupational trainee.
- 442.224A Taking into account the applicant's work rights during the period of the applicant's intended stay in Australia, the Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself.
- 442.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and

- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 442.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 442.227 If the applicant is outside Australia at the time of application, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 442.228 If the applicant is in the migration zone at the time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 442.229 (1) This clause applies to an applicant if the applicant is in the migration zone at the time of application and:
 - (a) at the time of making the application, the applicant was the holder of a visa of one of the following subclasses:
 - (i) Subclass 570 (Independent ELICOS Sector);
 - (ii) Subclass 572 (Vocational Education and Training Sector);
 - (iii) Subclass 573 (Higher Education Sector);
 - (iv) Subclass 574 (Postgraduate Research Sector);
 - (v) Subclass 575 (Non-Award Sector); or
 - (b) at the time of making the application:
 - (i) the applicant was not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was a visa of a subclass mentioned in paragraph (a).
- (2) If this clause applies to the applicant, the applicant satisfies the Minister that:
 - (a) the applicant:
 - (i) has completed the principal course, at the diploma level or higher, in Australia in relation to which:

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- (A) the visa held by the applicant at the time of application; or
 - (B) if the applicant was not the holder of a substantive visa at the time of application — the last substantive visa held by the applicant; was granted; and
 - (ii) seeks to undertake occupational training closely related to the principal course; and
 - (iii) would complete the occupational training within 12 months; or
 - (b) the applicant:
 - (i) has completed the principal course in Australia in relation to which:
 - (A) the visa held by the applicant at the time of application; or
 - (B) if the applicant was not the holder of a substantive visa at the time of application — the last substantive visa held by the applicant; was granted; and
 - (ii) must complete a period of practical employment experience in order to obtain registration in a profession in which registration is a prerequisite for the practice of the profession in:
 - (A) the applicant's usual country of residence; or
 - (B) Australia.
- 442.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

- 442.232 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.

- 442.233 (1) Either:
- (a) the applicant has turned 18; or
 - (b) the applicant has not turned 18, and the Minister is satisfied that exceptional circumstances exist for the grant of the visa.
- (2) If the applicant has not turned 18, public interest criteria 4012, 4017 and 4018 are satisfied in relation to the applicant.

442.3 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.
442.31 Criteria to be satisfied at time of application

- 442.311 The applicant is a member of the family unit of a person who has applied for a Subclass 442 visa.
- 442.312 If the applicant is outside Australia at the time of application, and the application is made separately from that of the family unit member satisfying the primary criteria:
- (a) that family unit member is, or is expected soon to be, in Australia; and
 - (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

442.32 Criteria to be satisfied at time of decision

- 442.321 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 442 visa.

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- 442.321A The Minister is satisfied that the occupational trainee sponsor of the member of the family unit who satisfies the primary criteria has agreed in writing to be the occupational trainee sponsor in relation to the applicant.
- 442.321B Clause 442.321A does not apply to an applicant who is a member of the family unit of the person who satisfies the primary criteria , and that person made his or her application before 14 September 2009.
- 442.322 The Minister is satisfied that the applicant has:
- (a) adequate means to support himself or herself; or
 - (b) access to adequate means to support himself or herself;
- taking into account the applicant's work rights during the period of the applicant's stay in Australia.
- 442.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 442.324 If the applicant is outside Australia at the time of application, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 442.324A If the applicant is in the migration zone at the time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 442.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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

442.327 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.

442.4 Circumstances applicable to grant

442.411 The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

442.5 When visa is in effect

442.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

442.6 Conditions

442.611 If the applicant meets the primary criteria, conditions 8102 and 8501.

442.612 If the applicant meets the secondary criteria, conditions 8104 and 8501.

442.613 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

442.7 Way of giving evidence

442.711 No evidence need be given.

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

Subclass 444 Special Category

444.1 Interpretation

Note No interpretation provisions specific to this Part.

444.2 Primary criteria

Note The only criteria are those set out in paragraph 32 (2) (a) of the Act and in regulation 5.15A. Under paragraph 32 (2) (a) of the Act, the requirements are: that the applicant is a New Zealand citizen; that the applicant holds, and has presented to an officer or an authorised system, a New Zealand passport that is in force; and that the applicant is neither a behaviour concern non-citizen nor a health concern non-citizen.

The terms *behaviour concern non-citizen* and *health concern non-citizen* are defined in subsection 5 (1) of the Act. Prescribed diseases in respect of a health concern non-citizen are set out in regulation 5.16. The definition of *behaviour concern non-citizen* includes a person who has been excluded from another country in certain circumstances. Those circumstances are set out in regulation 5.15.

Paragraph 32 (2) (c) of the Act allows other classes of persons to be declared by the regulations as classes of persons for whom a visa of another class would be inappropriate, and the declaration of a class of persons is to be found in regulation 5.15A.

Under regulation 5.15A, the requirements are that the applicant is a New Zealand citizen who holds, and has presented to an officer, a New Zealand passport that is in force; that the applicant is not a health concern non-citizen; and that the applicant is a behaviour concern non-citizen only because he or she has been excluded from another country in circumstances that, in the Minister's opinion, do not warrant the exclusion of the applicant from Australia.

444.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

444.4 Circumstances applicable to grant

444.411 At the time of grant, the applicant must:

- (a) be in Australia; or
- (b) intend to travel to Australia on a pre-cleared flight and be in immigration clearance at a port outside Australia at which pre-clearance procedures are carried out.

Note For *pre-cleared flight* see the Act, s 17.

444.5 When visa is in effect

444.511 Temporary visa permitting the holder to remain in Australia while the holder is a New Zealand citizen.

444.6 Conditions: Nil.

444.7 Way of giving evidence

444.711 No evidence need be given.

444.712 If evidence is given, to be given as follows:

- (a) if the grant is made in immigration clearance — by a port and date stamp placed in the passport of the holder;
- (b) if the grant is made in Australia after immigration clearance — by a *special category visa holder* stamp placed in the passport of the holder;
- (c) if the grant is made at an airport outside Australia at which pre-clearance procedures are carried out — by a *pre-cleared* stamp placed in the passport of the holder.

Subclass 445 Dependent Child

445.1 Interpretation

445.111 For this Part, the parent of an applicant is a *visa-holding parent* if he or she holds any of the following visas:

- (a) Subclass 309 (Spouse (Provisional));

- (aa) Subclass 309 (Partner (Provisional));
- (b) Subclass 310 (Interdependency (Provisional));
- (c) Subclass 445 (Dependent Child);
- (d) Subclass 820 (Spouse);
- (da) Subclass 820 (Partner);
- (e) Subclass 826 (Interdependency).

Note For *dependent child*, see regulation 1.03.

445.2 Primary criteria

Note All applicants must satisfy the primary criteria.

445.21 Criteria to be satisfied at time of application

445.211 The applicant:

- (a) is a dependent child of a visa-holding parent; and
- (b) is sponsored by the nominator or sponsor of the visa-holding parent.

445.22 Criteria to be satisfied at time of decision

445.221 The parent of the applicant continues to be a visa-holding parent.

445.222 The applicant continues to be a dependent child of the visa-holding parent.

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

(2) The applicant meets the requirements of this subclause if he or she continues to be sponsored by the nominator or sponsor of the visa-holding parent.

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

- (a) either:
 - (i) the nominator or sponsor of the visa-holding parent has died; or

- (ii) the relationship between the visa-holding parent and his or her nominator or sponsor has ceased, and either:
 - (A) the visa-holding parent has requested consideration under provisions relating to family violence in Subclass 100, 110, 801 or 814; or
 - (B) the visa-holding parent has requested consideration under provisions relating to parental arrangements for a child in Subclass 100 or 801; and
- (b) the applicant is sponsored by the visa-holding parent.
- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is a dependent child of a parent holding a Subclass 445 visa; and
 - (b) the circumstances mentioned in subparagraph (3) (a) (i), or sub-subparagraph (3) (a) (ii) (A) or (B) apply; and
 - (c) the applicant is sponsored by the person who is required to satisfy the primary criteria in Subclass 100, 110, 801 or 814.

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

445.224 The sponsorship mentioned in clause 445.223 has been approved by the Minister and is still in force.

Note Regulation 1.20KB limits the Minister's discretion to approve sponsorships.

445.225 The applicant:

- (a) 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.

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

445.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 445 visa is a person who:

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- (a) 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.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 445 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criteria 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

445.228 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.

445.229 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.

445.3 Secondary criteria

Note These criteria must be satisfied by applicants who are dependent children of, and who have made a combined application with, the person who satisfies the primary criteria.

445.31 Criteria to be satisfied at time of application

445.311 The applicant is a dependent child of, and made a combined application with, the person who satisfies the primary criteria for a Subclass 445 visa.

445.312 The sponsorship mentioned in paragraph 445.211 (c) for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.32 Criteria to be satisfied at time of decision

445.321 The applicant continues to be a dependent child of the person who, having satisfied the primary criteria, is the holder of a Subclass 445 visa.

445.322 The sponsorship mentioned in clause 445.223 for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.323 The sponsorship mentioned in clause 445.322 has been approved by the Minister and is still in force.

445.324 The applicant:

- (a) 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.

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

445.326 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.

445.4 Circumstances applicable to grant

445.411 If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.

445.412 If the application is made in Australia, the applicant must be in Australia when the visa is granted.

445.5 When a visa is in effect

445.511 Temporary visa permitting the holder to travel to, enter and remain in Australia within the visa period of the Extended Eligibility (Temporary) (Class TK) visa, Interdependency (Provisional) (Class UG) visa, Spouse (Provisional) (Class UF) visa, Partner (Provisional) (Class UF) visa or Partner (Temporary) (Class UK) visa held by the person on whom the applicant is dependent.

445.6 Conditions: Nil.

445.7 Way of giving evidence

445.711 No evidence need be given.

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

Subclass 448 Kosovar Safe Haven (Temporary)

448.1 Interpretation

Note No interpretation provisions specific to this Part.

448.2 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.

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

448.22 Criteria to be satisfied at time of decision

448.221 (1) The applicant meets the requirements of subclause (2) or (3).

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

- (a) was resident in Kosovo in the Federal Republic of Yugoslavia on 25 March 1999; and
 - (b) has been displaced from Kosovo since 25 March 1999.
 - (3) The applicant meets the requirements of this subclause if the applicant:
 - (a) is a member of the immediate family of a holder of a Subclass 448 visa (the visa holder); and
 - (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 448 visa.
- 448.223 Grant of the visa would not result in either:
- (a) the number of Subclass 448 visas granted in a financial year exceeding the maximum number of Subclass 448 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 448, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 448.224 The applicant satisfies public interest criteria 4002 and 4003.
- 448.225 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.
- 448.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

448.3 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.

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

448.32 Criteria to be satisfied at time of decision

448.321 The applicant:

- (a) is a member of the family unit of a person who, having met the requirements of subclause 448.221 (2), is the holder of a Subclass 448 visa; or
- (b) is a member of the immediate family of a person who, having met the requirements of subclause 448.221 (3), is the holder of a Subclass 448 visa.

- 448.322 The applicant satisfies public interest criteria 4002 and 4003.
- 448.323 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.
- 448.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

448.4 Circumstances applicable to grant

- 448.411 The applicant may be in, or outside, Australia at time of grant.

448.5 When visa is in effect

- 448.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

448.6 Conditions

- 448.611 If the applicant is outside Australia at time of grant, conditions 8104, 8506 and 8529.
- 448.612 If the applicant is in Australia at time of grant, conditions 8104 and 8506.
- 448.613 Condition 8303 may be imposed.

448.7 Way of giving evidence

- 448.711 No evidence need be given.
- 448.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 449 Humanitarian Stay (Temporary)

449.1 Interpretation

Note No interpretation provisions specific to this Part.

449.2 Primary criteria

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

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

449.22 Criteria to be satisfied at time of decision

- 449.221 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant has been displaced from his or her place of residence, and:
- (i) cannot reasonably return to that place of residence; and
 - (ii) is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, he or she was displaced from that place of residence; or
- (b) the applicant has not been displaced from his or her place of residence, but:
- (i) there is a strong likelihood that the applicant will be displaced from that place of residence; and
 - (ii) the applicant is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, the applicant may be displaced from that place of residence.

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- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) is a member of the immediate family of a holder of a Subclass 449 visa (*the visa holder*); and
 - (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 449 visa.
- 449.223 Grant of the visa would not result in either:
- (a) the number of Subclass 449 visas granted in a financial year exceeding the maximum number of Subclass 449 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 449, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 449.224 (1) The applicant satisfies public interest criteria 4002 and 4003A.
- (2) The applicant 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.

449.3 Secondary criteria

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

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

449.32 Criteria to be satisfied at time of decision

- 449.321 The applicant:
- (a) is a member of the family unit of a person who, having met the requirements of subclause 449.221 (2), is the holder of a Subclass 449 visa; or

(b) is a member of the immediate family of a person who, having met the requirements of subclause 449.221 (3), is the holder of a Subclass 449 visa.

449.322 (1) The applicant satisfies public interest criteria 4002 and 4003A.

(2) The applicant 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.

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

449.4 Circumstances applicable to grant

449.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

449.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

449.5 When visa is in effect

449.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

449.6 Conditions

449.611 Condition 8506.

449.612 Condition 8101 or 8104 may be imposed.

449.612A Condition 8303 may be imposed.

449.613 If the Minister is satisfied that it would be unreasonable to require an applicant to undergo assessment in relation to criterion 4007, condition 8529.

Note See subclauses 449.224 (2) and 449.322 (2).

449.7 Way of giving evidence

449.711 No evidence need be given.

449.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 450 Resolution of Status — Family Member (Temporary)

450.1 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.

450.2 Primary criteria

Note All applicants must satisfy the primary criteria.

450.21 Criteria to be satisfied at time of application

450.211 The applicant:

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

450.212 The applicant:

- (a) was, on 13 June 1997, a member of the immediate family of the sponsor; or

- (b) became a dependent child of the sponsor after that date; or
 - (c) was, on 13 June 1997, a dependent child of the spouse or de facto partner of the sponsor.
- 450.213 In the application, by the sponsor, that is mentioned in sub-subparagraph 450.211 (a) (i) (A), the applicant is:
- (a) identified as:
 - (i) a member of the immediate family of the sponsor, except if the applicant became a dependent child of the sponsor after that date; or
 - (ii) a dependent child of the spouse or de facto partner of the sponsor; and
 - (b) sponsored by the sponsor.
- 450.22 Criteria to be satisfied at time of decision**
- 450.221 The applicant continues to satisfy clause 450.211 and the sponsor is a person who, having satisfied the primary criteria, is the holder of a Subclass 850 (Resolution of Status (Temporary)) or Subclass 851 (Resolution of Status) visa.
- 450.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 450.223 Each member of the family unit of the applicant who is not an applicant for a Subclass 450 visa is a person who:
- (a) 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.
- 450.224 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.

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

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

450.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

450.4 Circumstances applicable to grant

450.411 The applicant must be outside Australia when the visa is granted.

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

450.5 When visa is in effect

450.511 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.

450.6 Conditions

450.611 First entry must be made before a date specified by the Minister for the purpose.

450.612 Condition 8515 may be imposed.

450.7 Way of giving evidence

450.711 Visa label affixed to a valid passport.

Subclass 456 Business (Short Stay)

456.1 Interpretation

Note No interpretation provisions specific to this Part.

456.2 Primary criteria

456.21 Criteria to be satisfied at time of application

456.211 The applicant:

- (a) seeks to enter Australia temporarily for business purposes; and
- (aa) has personal attributes and business background that are relevant to, and consistent with, the nature of the applicant's proposed business in Australia; and
- (ab) demonstrates that there is need for the applicant to be in Australia for business purposes; and
- (b) proposes in the application to remain in Australia for not more than 3 months on any single occasion; and
- (c) has adequate funds for personal support during the period of his or her stay in Australia on each such occasion.

456.212 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

456.213 The applicant does not intend to engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
- (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

456.22 Criteria to be satisfied at time of decision

- 456.221 (1) The applicant meets the requirements of subclause (2) or (4).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant continues to satisfy the criteria in clauses 456.211 and 456.212; and
- (b) the applicant satisfies the Minister that the expressed intention of the applicant only to stay in Australia temporarily for business purposes is genuine; and
- (c) satisfies:
- (i) public interest criteria 4001, 4002, 4003, 4004, 4011, 4013 and 4014; and
- (ii) except where the applicant is a person to whom subclause (4) applies, public interest criterion 4005; and
- (d) if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and
- (4) The applicant is a person to whom this subclause applies if:
- (a) privileges and immunities are, or are expected to be, accorded to the applicant under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and
- (b) the Foreign Minister has recommended in writing to the Minister that the applicant should be granted the visa.
- 456.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or

- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

456.223 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.

456.3 Secondary criteria

456.31 Criteria to be satisfied at the time of application

456.311 The applicant is the spouse, de facto partner, or a dependent child, of an applicant for a Temporary Business Entry (Class UC) visa who seeks to satisfy the criteria for the grant of a Subclass 456 (Business (Short Stay)) visa.

456.313 The applicant does not intend to engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
- (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

456.32 Criteria to be satisfied at time of decision

456.321 The applicant is a spouse, de facto partner or dependent child of a person who, having satisfied the primary criteria, is the holder of a Subclass 456 visa.

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- 456.322 The applicant, or the person who satisfies the primary criteria, produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant.
- 456.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4011, 4013 and 4014; and
 - (b) except where the applicant is the spouse, de facto partner or a dependent child, of a person to whom subclause 456.221 (4) applies — satisfies public interest criterion 4005.
- 456.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 456.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 456.327 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 456.328 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 456.329 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.

456.4 Circumstances applicable to grant

456.411 The applicant must be outside Australia at the time of grant.

456.5 When visa is in effect

456.511 Subject to clause 456.514, a temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions, as specified by the Minister, until a date, not later than 10 years after the date of grant of the visa, specified by the Minister; and
- (b) to remain in Australia after each entry for a period, not longer than 3 months, specified by the Minister.

456.514 If the visa is granted to the spouse, de facto partner or a dependent child of another person who is the holder of a Subclass 456 visa — a temporary visa having the same effect as the visa granted to that other person.

456.6 Conditions

456.611 Condition 8112 must be imposed.

456.612 Condition 8503 may be imposed.

456.7 Way of giving evidence

456.711 No evidence need be given.

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

Subclass 457 Business (Long Stay)

457.1 Interpretation

457.111 (1) In this Part:

adverse information has the meaning given by subregulation 2.57 (3).

occupation includes an activity:

- (a) that was nominated under regulation 1.20G or 1.20GA as in force immediately prior to 14 September 2009; and
 - (b) in relation to which the nomination has not ceased to have effect.
- (2) In this Part, a business is of benefit to Australia if:
- (a) the conduct of the business contributes to:
 - (i) the creation or maintenance of employment for Australian citizens or Australian permanent residents; or
 - (ii) expansion of Australian trade in goods or services; or
 - (iii) the improvement of Australian business links with international markets; or
 - (iv) competitiveness within sectors of the Australian economy; and
 - (b) the operator of the business:
 - (i) introduces to, or utilises or creates in, Australia new or improved technology or business skills; or
 - (ii) has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents in the business in Australia.

Note **AUD, IASS agreement, labour agreement, ownership interest** and **standard business sponsor** are defined in regulation 1.03.

- (3) In this Part:
- (a) a person is **associated with** a corporation, partnership, unincorporated association or other entity that has made a nomination in relation to an applicant for a visa in the same way in which, under subregulation 2.57 (2), a person is associated with an applicant; and
 - (b) subregulation 2.57 (2) is to be applied as if a reference in that subregulation to an applicant were a reference to the person who has made the nomination in relation to the applicant; and

- (c) an expression in subregulation 2.57 (2) that is defined in subregulation 2.57 (1) has the meaning given by that subregulation.

457.2 Primary criteria

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

457.21 Criteria to be satisfied at time of application

457.211 If the applicant is in Australia at the time of application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of application:
- (i) the last substantive visa held by the applicant was not a Subclass 771 (Transit) visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

Note *Special purpose visa* is defined in subsection 5 (1) of the Act.

457.22 Criteria to be satisfied at time of decision

457.221 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

457.221A If the applicant was outside Australia at the time of making their application, but inside Australia at the time of the decision on the application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of the decision on the application:

- (i) the last substantive visa held by the applicant was not a Subclass 771 (Transit) visa or a special purpose visa; and
- (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

Note **Special purpose visa** is defined in subsection 5 (1) of the Act.

- 457.223 (1) The applicant meets the requirements of subclause (2), (4), (7A), (8), (9) or (10).

Labour agreements

- (2) The applicant meets the requirements of this subclause if:
 - (a) the occupation specified in the application is the subject of a labour agreement; and
 - (b) either:
 - (i) both of the following apply:
 - (A) the applicant and a business activity specified in the application and relating to the applicant were the subject of an approved business nomination under regulation 1.20H as in force immediately prior to 14 September 2009; and
 - (B) the approval has not ceased to have effect under subregulation 1.20H (5) as in force immediately prior to 14 September 2009; or
 - (ii) a nomination of an occupation in relation to the applicant:
 - (A) has been approved under section 140GB of the Act; and
 - (B) has not ceased to have effect under regulation 2.75; and

Note The definition of **occupation** in clause 457.111 includes the activity mentioned in subparagraph (i).

- (c) the applicant is nominated by a party to the labour agreement; and

- (d) if the Minister requires the applicant to demonstrate that he or she has skills and experience that are suitable to perform the occupation — the applicant demonstrates that he or she has those skills and that experience in the manner specified by the Minister; and
- (e) the Minister is satisfied that the requirements of the labour agreement have been met in relation to the application; and
- (f) either:
 - (i) there is no adverse information known to Immigration about a party to the labour agreement or a person associated with the party to the labour agreement; or
 - (ii) it is reasonable to disregard any adverse information known to Immigration about a party to the labour agreement or a person associated with the party to the labour agreement.

Standard business sponsorship

- (4) The applicant meets the requirements of this subclause if:
 - (a) either:
 - (i) if the applicant and a business activity specified in the application and relating to the applicant were the subject of an approved business nomination under regulation 1.20H as in force immediately prior to 14 September 2009:
 - (A) the nomination was made by a person who was a standard business sponsor at the time the nomination was approved; and
 - (B) the approval of the nomination has not ceased to have effect under subregulation 1.20H (5) as in force immediately prior to 14 September 2009; or
 - (ii) if a nomination of an occupation in relation to the applicant has been approved under section 140GB of the Act:

(A) the nomination was made by a person who was a standard business sponsor at the time the nomination was approved; and

(B) the approval of the nomination has not ceased as provided for in regulation 2.75; and

Note The definition of **occupation** in clause 457.111 includes the activity mentioned in subparagraph (i).

- (aa) the nominated occupation is specified in an instrument in writing for paragraph 2.72 (10) (a) or (aa) that is in effect; and
- (ba) if the business activities of the person who made the approved nomination include activities relating to either or both of:
 - (i) the recruitment of labour for supply to other unrelated businesses; and
 - (ii) the hiring of labour to other unrelated businesses;either:
 - (iii) the occupation is undertaken in a position with a business, or an associated entity, of the person who made the approved nomination; or
 - (iv) the occupation is specified by the Minister in an instrument in writing for this subparagraph; and
- (d) the Minister is satisfied that:
 - (i) the applicant's intention to perform the occupation is genuine; and
 - (ii) the position associated with the nominated occupation is genuine; and
- (e) if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the occupation — the applicant demonstrates that he or she has those skills in the manner specified by the Minister; and
- (ea) if:
 - (i) the applicant would be required to hold a licence, registration or membership that is mandatory to perform the occupation nominated in relation to the applicant; and

(ii) in order to obtain the licence, registration or membership, the applicant would need to demonstrate a level of English language proficiency equivalent to the level of English language proficiency that is required to achieve an IELTS test score of more than 5 in each of the 4 test components of speaking, reading, writing and listening;

the applicant has proficiency in English of at least the standard required for the grant (however described) of the licence, registration or membership; and

(eb) if:

- (i) the applicant is not an exempt applicant; and
- (ii) subclause (6) does not apply to the applicant; and
- (iii) at least 1 of subparagraphs (ea) (i) and (ii) does not apply;

the applicant has a level of English language proficiency that is required to achieve an IELTS test score of at least 5 in each of the 4 test components of speaking, reading, writing and listening; and

(ec) if the Minister requires the applicant to demonstrate his or her English language proficiency — the applicant demonstrates his or her English language proficiency in the manner specified by the Minister; and

(f) either:

- (i) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person; or
- (ii) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph (a) or a person associated with that person.

(6) This subclause applies to an applicant if:

- (a) the applicant will be paid, in connection with the occupation nominated in relation to the applicant, a level of salary that is at least the level of salary worked

out in a way specified by the Minister in an instrument in writing for this paragraph; and

- (b) the Minister considers that granting a Subclass 457 visa to the applicant would be in the interests of Australia.

Independent executives

(7A) The applicant meets the requirements of this subclause if:

- (a) either:
- (i) the applicant holds a Subclass 457 visa granted on the basis that:
 - (A) the applicant met the requirements of subclause (7) as in force immediately before 14 September 2009; or
 - (B) the applicant met the requirements of Subdivision 457.32 as the spouse or de facto partner of a person who held a Subclass 457 visa granted on the basis that he or she met the requirements of subclause (7) as in force immediately before 14 September 2009; or
 - (ii) the applicant does not hold a substantive visa, and the last substantive visa held by the applicant was of a kind mentioned in subparagraph (i); and
- (b) on the day on which the application is made:
- (i) the applicant had been conducting the business in Australia as a principal for at least 15 months; or
 - (ii) if the applicant had been conducting the business in Australia as a principal for less than 15 months — a government of a State or Territory had endorsed the business as beneficial to the State or Territory; and
- (c) the Minister is satisfied that:
- (i) the business is of benefit to Australia; and
 - (ii) the applicant has a genuine and realistic commitment:
 - (A) to maintain an ownership interest in the business; and

- (B) to maintain a direct and continuous involvement in the management of the business; and
- (C) to make decisions that affect the overall direction and performance of the business from day to day; and
- (iii) either:
 - (A) there is no adverse information known to Immigration about the applicant or a person associated with the applicant; or
 - (B) it is reasonable to disregard any adverse information known to Immigration about the applicant or a person associated with the applicant; and
- (iv) the applicant has net assets of:
 - (A) not less than AUD250,000; or
 - (B) a lesser amount that is adequate; to conduct the business; and
- (v) the applicant has demonstrated that there is need for the applicant to be temporarily resident in Australia to conduct the business.

Service sellers

- (8) The applicant meets the requirements of this subclause if:
 - (a) the applicant:
 - (i) is a representative of a supplier of services who is located outside Australia; and
 - (ii) proposes to represent the supplier in Australia; and
 - (b) the representation involves negotiating, or entering into agreements, for the sale of services but does not involve the actual supply, or direct sale, of the services; and
 - (c) the Minister is satisfied that the proposal has not been made only for the purposes of securing the entry of the applicant to Australia.

Persons accorded certain privileges and immunities

- (9) The applicant meets the requirements of this subclause if:
- (a) the applicant is a person to whom privileges and immunities will be accorded under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and
 - (b) the Foreign Minister has recommended in writing to the Minister that the applicant should be granted the visa.

IASS agreements

- (10) The applicant meets the requirements of this subclause if:
- (a) the occupation specified in the application is the subject of an IASS agreement; and
 - (c) the party to the IASS agreement has agreed in writing to be the sponsor for the visa applicant; and
 - (d) the requirements of the IASS agreement have been met in relation to the application.

- (11) In subclause (4):

exempt applicant means an applicant who is in a class of applicants specified by the Minister in an instrument in writing for this subclause.

457.223B For an applicant other than an applicant who has met the requirements of subclause 457.223 (8) or subclause 457.223 (9) — the Minister is satisfied that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

457.223C If the nominated occupation is a medical practitioner, the applicant's qualifications are recognised by the relevant authority in Australia for the registration of medical practitioners as entitling the applicant to practise as a medical practitioner.

- 457.224 The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4010, 4013 and 4014; and
 - (b) if:
 - (i) the applicant is the holder of a visa granted on the basis that the applicant met the requirements of subclause 457.223 (7); and
 - (ii) the applicant seeks a visa on the basis that the applicant meets the requirements of subclause 457.223 (7A);public interest criterion 4005; and
 - (c) if the applicant does not seek a visa on the basis that the applicant meets the requirements of subclause 457.223 (9) — public interest criterion 4006A; and
 - (d) if paragraph (c) applies to the applicant and the applicant had turned 18 at the time of application — public interest criterion 4019.
- 457.225 If:
- (a) the applicant is outside Australia; and
 - (b) the applicant has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 457.226 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 457.226A If:
- (a) the applicant was the holder of a Student (Temporary) (Class TU) visa at the time of making the application for a Temporary Business Entry (Class UC) visa; and

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- (b) is a fully funded student within the meaning given by clause 5A103,
- the Minister is satisfied that it would not be detrimental to Australia's policies in relation to overseas students to grant the visa.
- 457.227 (1) In relation to the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A), each member of the family unit who is an applicant for a Subclass 457 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) In relation to the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A), each member of the family unit who is not an applicant for a Subclass 457 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.
- 457.228 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.

457.3 Secondary criteria

457.31 [No criteria to be satisfied at time of application.]

457.32 Criteria to be satisfied at time of decision

457.321 The applicant is a member of the family unit of a person (the *primary applicant*) who, having satisfied the primary criteria, is the holder of a Subclass 457 visa.

457.322 If:

- (a) the applicant is outside Australia; and
- (b) the application is made separately from that of the primary applicant;

the primary applicant is, or is expected soon to be, in Australia.

457.323 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

457.324 (1) The applicant is included in any nomination that is required in respect of the primary applicant in accordance with approved form 1196N or 1196 (Internet).

(2) If the applicant is not included in any nomination that is required in respect of the primary applicant in accordance with approved form 1196N or 1196 (Internet):

- (a) the standard business sponsor who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to the standard business sponsor; or
- (b) the former standard business sponsor who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the

applicant may be a secondary sponsored person in relation to the former standard business sponsor; or

- (c) a party to the labour agreement who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to that party; or
- (d) a former party to the labour agreement who has the most recent approved nomination under section 140GB of the Act, or under regulation 1.20H as in force immediately prior to 14 September 2009, of an occupation in relation to the primary applicant has agreed in writing that the applicant may be a secondary sponsored person in relation to that former party.

457.324B Either:

- (a) there is no adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph 457.223 (2) (b) or 457.223 (4) (a); or
- (b) it is reasonable to disregard any adverse information known to Immigration about the person who made the approved nomination mentioned in paragraph 457.223 (2) (b) or 457.223 (4) (a), or a person associated with that person.

457.324D Except for an applicant who seeks to satisfy the secondary criteria on the basis of being a member of the family unit of the primary applicant who has met the requirements of subclause 457.223 (8) or subclause 457.223 (9), the Minister is satisfied that the applicant has adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

457.325 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4013 and 4014; and

- (b) satisfies public interest criterion 4019, if:
 - (i) the applicant had turned 18 at the time of application; and
 - (ii) the applicant did not make an application with a primary applicant who seeks to meet the requirements of subclause 457.223 (9); and
 - (c) if the applicant is a member of the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A) — satisfies public interest criterion 4005; and
 - (d) unless the applicant is a member of the family unit of a primary applicant who meets the requirements of subclause 457.223 (9) — satisfies public interest criterion 4006A.
- 457.326 If:
- (a) the applicant is outside Australia; and
 - (b) the applicant has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 457.327 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 457.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 457.329 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

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

457.4 Circumstances applicable to grant

- 457.411 The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

457.5 When visa is in effect

- 457.511 A temporary visa permitting the holder:
- (a) in the case of a holder who is in Australia at the time of grant — to remain in Australia for a period of not more than 4 years from the date of grant; and
 - (b) in the case of a holder who is outside Australia at the time of grant — to remain in Australia for a period of not more than 4 years from the date of entry that is specified by the Minister; and
 - (c) in the case of a holder of a visa granted on the basis that the holder met the requirements of subclause 457.223 (7A) — to remain in Australia for a period of 2 years from the date of the grant; and
 - (ca) in the case of a holder whose visa was granted on the basis that the holder met:
 - (i) the requirements of subclause 457.223 (2); or
 - (ii) the secondary criteria for the grant of the visa as a member of the family unit of a person who met the requirements of subclause 457.223(2);to remain in Australia until:
 - (iii) the end of the period specified for the visa in the labour agreement mentioned in paragraph 457.223 (2); or
 - (iv) if no period is specified in the labour agreement — the date on which the labour agreement ceases; and
 - (d) in the case of a holder:
 - (i) to whom paragraph (a), (b), (c) or (ca) would apply; and

- (ii) whose visa was granted on the basis that he or she was a member of the family unit of the holder of a visa in the circumstances described in subregulation 1.12 (10);
to remain in Australia until the earlier of:
 - (iii) the end of the period in paragraph (a), (b) or (c) that would have applied to the holder; and
 - (iv) the end of the day before the holder's 21st birthday; and
- (f) in any case — to travel to, and enter, Australia on multiple occasions before the end of the relevant period.

457.6 Conditions

- 457.611 (1) For:
- (a) an applicant other than an applicant who has met the requirements of subclause 457.223 (8) or subclause 457.223 (9); or
 - (b) an applicant other than an applicant who seeks to satisfy the secondary criteria on the basis of being a member of the family unit of the primary applicant who has met the requirements of subclause 457.223 (8) or subclause 457.223 (9);
- condition 8501.
- (2) If the applicant satisfies the primary criteria, condition 8107 applies unless the applicant meets the requirements of subclause 457.223 (7A).
- (3) Any 1 or more of conditions 8303, 8502, 8516, 8522, 8525 and 8526 may be imposed.

457.7 Way of giving evidence

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

Subclass 459 Sponsored Business Visitor (Short Stay)

459.1 Interpretation

Note *AusAID Minister*, *AusAID recipient*, *AusAID student*, *Australian permanent resident*, *dependent child* and *settled* are defined in regulation 1.03, *sponsor* is defined in regulation 1.20, *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).

459.2 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.

459.21 Criteria to be satisfied at time of application

459.211 The applicant:

- (a) seeks to enter Australia temporarily for business purposes; and
- (b) has personal attributes and business background that are relevant to, and consistent with, the nature of the applicant's proposed business in Australia; and
- (c) demonstrates that there is need for the applicant to be in Australia for business purposes; and
- (d) proposes in the application to remain in Australia for not more than 3 months; and
- (e) has adequate funds for personal support during the period of the proposed visit to Australia.

459.212 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

459.213 The applicant does not intend to engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or

- (ii) leading to a degree, diploma, trade certificate or other formal award; or
 - (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.
- 459.214 The applicant is sponsored by:
- (a) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is a member of the Commonwealth Parliament or a State Parliament; or
 - (ii) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (iii) holds the office of mayor; or
 - (b) a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality; or
 - (c) an organisation specified in a Gazette Notice for this paragraph.

459.22 Criteria to be satisfied at time of decision

- 459.221 The applicant continues to satisfy the criteria in clauses 459.211 to 459.214.
- 459.222 The sponsorship referred to in subclause 459.214 has been approved by the Minister and is still in force.
- 459.223 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia temporarily for business purposes is genuine.
- 459.224 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).
- 459.225 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

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- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 459.226 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014.
- 459.227 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 459.228 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 459.229 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.

459.3 Secondary criteria

459.31 Criteria to be satisfied at time of application

- 459.311 The applicant is the spouse, de facto partner or a dependent child, of a person who is an applicant for a Subclass 459 visa who seeks a visa to remain in Australia temporarily for a period of 3 months or less.
- 459.312 The sponsorship referred to in clause 459.214 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

- 459.313 The applicant does not intend to engage in:
- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
 - (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

459.32 Criteria to be satisfied at time of decision

- 459.321 The applicant is the spouse, de facto partner or a dependent child, of a person who, having satisfied the primary criteria, is the holder of a Subclass 459 visa.
- 459.322 The sponsorship referred to in clause 459.214 in respect of the person who satisfies the primary criteria:
- (a) includes sponsorship of the applicant; and
 - (b) has been approved by the Minister; and
 - (c) is still in force.
- 459.323 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).
- 459.324 The applicant, or the person who satisfies the primary criteria, produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant.
- 459.325 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 459.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

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- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 459.327 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014.
- 459.328 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 459.329 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 459.330 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.

459.4 Circumstances applicable to grant

- 459.411 The applicant must be outside Australia at the time of grant.

459.5 When visa is in effect

- 459.511 Temporary visa permitting the holder:
- (a) to travel to and enter Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period, not longer than 3 months after the date of each entry, specified by the Minister for the purpose.

459.6 Conditions

- 459.611 If the applicant satisfies the primary criteria, condition 8112.

- 459.612 If the applicant satisfies the primary criteria, conditions 8106, 8503 and 8531 may be imposed.
- 459.613 If the applicant is the spouse or de facto partner of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, condition 8101.
- 459.613A If the applicant is the spouse or de facto partner of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, conditions 8503 and 8531 may be imposed.
- 459.615 If the applicant is a dependent child of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, conditions 8101, 8503 and 8531 may be imposed.

459.7 Way of giving evidence

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

Subclass 461 New Zealand Citizen Family Relationship (Temporary)

461.1 Interpretation

Note There are no interpretation provisions specific to this Part.

461.2 Primary criteria

Note All applicants must meet the primary criteria.

461.21 Criteria to be satisfied at time of application

- 461.211 The applicant is not a New Zealand citizen.
- 461.212 (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) a person who is in Australia as the holder of a Subclass 444 (Special Category) visa; or
- (b) a person who:
- (i) is outside Australia; and
 - (ii) will be accompanying the applicant to Australia; and
 - (iii) will, on entry, be the holder of a special category visa.
- (3) An applicant meets the requirements of this subclause if the applicant:
- (a) either:
- (i) is in Australia as the holder of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa; or
 - (ii) is not the holder of a substantive visa and the last substantive visa held by the applicant was a Subclass 461 visa; and
- (b) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
- (c) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).
- (4) An applicant meets the requirements of this subclause if the applicant:
- (a) is outside Australia; and
- (b) either:
- (i) the applicant was lawfully present in Australia as the holder of a Subclass 461 visa for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa; or
 - (ii) the Minister is satisfied that the applicant:
 - (A) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and

- (B) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence; and
 - (c) on last departure from Australia was a holder of a Subclass 461 visa; and
 - (d) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
 - (e) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).
- 461.213 If the application is made in Australia, the applicant:
- (a) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (b) does not hold a substantive visa and:
 - (i) immediately before ceasing to hold such a visa was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.
- 461.22 Criteria to be satisfied at time of decision**
- 461.221 The applicant continues to satisfy the criterion in subclause 461.212 (1).
- 461.222 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 461.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 461.224 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 461.225 If the application is made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 461.226 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 461.227 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.

461.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

461.4 Circumstances applicable to grant

- 461.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 461.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

461.5 When visa is in effect

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

461.6 Conditions

- 461.611 Either or both of conditions 8303 and 8501 may be imposed.

461.7 Way of giving evidence

- 461.711 No evidence need be given.

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

Subclass 462 Work and Holiday

462.1 Interpretation

Note There are no interpretation provisions specific to this Part. *AusAID recipient* and *AusAID student* are defined in regulation 1.03.

462.2 Primary criteria

Note All applicants must satisfy the primary criteria.

462.21 Criteria to be satisfied at time of application

462.211 If the applicant:

- (a) does not hold a Subclass 462 (Work and Holiday) visa; and
- (b) is not a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A (3) (b) (iii) of Schedule 1;

the applicant satisfies the criteria in clauses 462.212, 462.213, 462.215, 462.216 and 462.217.

462.211A If:

- (a) the applicant holds a Subclass 462 (Work and Holiday) visa; or
- (b) the applicant:
 - (i) does not hold a Subclass 462 (Work and Holiday) visa; and
 - (ii) is a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A (3) (b) (iii) of Schedule 1;

the applicant satisfies the criteria in clause 462.212 and clauses 462.214 to 462.217.

462.212 The applicant is at least 18 but has not turned 31.

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- 462.213 (1) The applicant has provided with the application a letter:
- (a) from the government of a foreign country with which the Australian Government has an arrangement mentioned in clause 462.216; and
 - (b) that includes a statement to the effect that the government of the foreign country has agreed to the applicant's stay in Australia under the arrangement.
- (2) The applicant holds a valid passport issued by the foreign country mentioned in subclause (1).
- 462.214 The applicant holds a valid passport issued by a foreign country specified in an instrument in writing made under paragraph 1224A (3) (a) of Schedule 1.
- 462.215 The Minister is satisfied that the applicant has at least functional English.
- Note functional English* is defined in subsection 5 (2) of the Act.
- 462.216 The Minister is satisfied that the application meets the requirements of an arrangement between the Australian Government and the government of a foreign country specified in an instrument in writing made under paragraph 1224A (3) (a) of Schedule 1.
- 462.217 The Minister is satisfied that the applicant:
- (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
 - (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and
 - (ii) personal support for the purposes of a working holiday; and
 - (c) will not be accompanied by dependent children during the applicant's stay in Australia unless the applicant is a member of a class of persons specified by the Minister in an instrument in writing for this paragraph.

462.22 Criteria to be satisfied at time of decision

462.221 The applicant:

- (a) continues to satisfy the criteria in clauses 462.215, 462.216 and 462.217; and
- (aa) continues to hold the passport mentioned in paragraph 1224A (3) (a) of Schedule 1, or a valid replacement passport issued by the country concerned; and
- (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014 and 4019; and
- (c) is the holder of an educational qualification specified in an instrument in writing for this paragraph, in relation to the foreign country that issued the passport mentioned in paragraph (aa); and
- (e) is not an AusAID student or an AusAID recipient.

462.222 If the applicant:

- (a) was outside Australia at the time of application; and
- (b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

462.223 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

462.3 Secondary criteria

Note All applicants must meet the primary criteria.

462.4 Circumstances applicable to grant

462.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

462.412 If the applicant is in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

462.5 When visa is in effect

462.511 If the applicant is outside Australia at the time of grant — temporary visa permitting the holder:

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- (a) to travel to and enter Australia within 12 months after the date of the grant of the visa; and
- (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.
- 462.512 If the applicant is in Australia at the time of grant — temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant.

462.6 Conditions

- 462.611 Conditions 8547 and 8548.
- 462.612 Any 1 or more of conditions 8303, 8501, 8503, 8516 and 8540 may be imposed, unless an application is decided by the use of a computer program in accordance with an arrangement under section 495A of the Act.

462.7 Way of giving evidence

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

Subclass 470 Professional Development

470.1 Interpretation

- 470.111 In this Part:
professional development agreement and *overseas employer* have the same meaning as in regulation 2.57.
Note professional development sponsor is defined in regulation 1.03.
- 470.112 In this Part:
professional development agreement, in relation to an applicant, means the professional development agreement that the applicant's professional development sponsor has with the applicant's overseas employer.

470.2 Primary criteria

Note All applicants must satisfy the primary criteria.

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

470.22 Criteria to be satisfied at time of decision

470.221 Either:

- (a) the applicant has turned 18; or
- (b) the applicant has not turned 18, and the Minister is satisfied that exceptional circumstances exist for the grant of the visa.

470.222 The applicant nominated a professional development sponsor as the applicant's sponsor in the application for the visa.

470.222A The professional development sponsor nominated by the applicant:

- (a) has not ceased to be an approved sponsor; and
- (b) has not withdrawn the agreement, in writing, to be a professional development sponsor in relation to the applicant; and
- (c) is not barred from sponsoring the applicant under paragraph 140M (1) (c) of the Act.

Note **approved sponsor** is defined in subsection 5 (1) of the Act.

470.223 The professional development sponsor is satisfied that the applicant:

- (a) will undertake the professional development program mentioned in the visa application; and
- (b) has managerial or other professional skills and work experience that are relevant to that program.

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

470.226 The applicant:

- (a) has an overseas employer; and
- (b) is in a managerial or professional position in relation to the overseas employer.

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- 470.227 The Minister is satisfied that there is no information indicating that any of the parties to the professional development agreement are unable to meet their financial commitments under the agreement.
- 470.229 The Minister is satisfied that the applicant is a genuine applicant for entry to Australia to undertake the professional development program conducted by or for the professional development sponsor, having regard to:
- (a) the applicant's previous compliance with the immigration laws of Australia; and
 - (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (c) any other relevant matter.
- 470.230 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 470.231 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 470.232 The applicant gives to the Minister evidence that the professional development sponsor is satisfied in relation to the applicant's English language proficiency for the purposes of undertaking the professional development program mentioned in the visa application.
- 470.233 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.
- 470.234 The Minister is satisfied that there is no evidence to suggest that the applicant is unable to meet the costs (if any) specified in the professional development agreement as costs that the applicant will meet.

470.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

470.4 Circumstances applicable to grant

470.411 The applicant must be outside Australia at the time of grant.

470.5 When visa is in effect

470.511 Temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia until a date specified by the Minister for the purpose.

470.6 Conditions

470.611 Conditions 8102, 8501, 8503, 8514, 8516, 8531 and 8536.

470.7 Way of giving evidence

470.711 No evidence need be given.

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

Subclass 475 Skilled — Regional Sponsored

475.1 Interpretation

475.111 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).

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

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

Note 1 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 3 Regulation 1.03 provides that *concessional competent English* has the meaning set out in regulation 1.15E.

Note 3A For *designated area*, see regulation 1.03.

Note 4 For *registered course*, see regulation 1.03.

Note 5 For *relevant assessing authority*, see regulation 1.03.

Note 6 For *skilled occupation*, see regulation 1.03.

475.2 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.

475.21 Criteria to be satisfied at time of application

- 475.211 (1) If the applicant has nominated a skilled occupation which is specified by the Minister in an instrument in writing for this subclause, the applicant has been employed in the skilled occupation for at least 12 months in the period of 24 months ending immediately before the day on which the application was made.
- (2) If the applicant has not nominated a skilled occupation as described in subclause (1):
- (a) the applicant has been employed in a skilled occupation for at least 12 months in the period of 24 months ending immediately before the day on which the application was made; or
 - (b) the following requirements are met:
 - (i) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made;
 - (ii) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

475.212 (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.

475.214 The applicant has concessional competent English.

475.22 Criteria to be satisfied at time of decision

475.221 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).

475.222 (1) Either:

(a) if the applicant was nominated by a State or Territory government agency in accordance with subitem 1228 (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 1228 (3B) at the time of making the application — the requirements of subclause (3) are met.

(2) The Minister has accepted the nomination mentioned in subitem 1228 (3A) of Schedule 1.

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- (3) All of the following requirements are met:
- (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 a designated area of 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 475 (Skilled — Regional Sponsored) visa), as:
 - (A) a parent; or
 - (B) a child or 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; or
 - (F) a grandparent or first cousin;
- (b) the sponsorship was made:
- (i) on Form 1277 (Internet), and the Minister has accepted the sponsorship; 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.

- 475.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1228 of Schedule 1; or
 - (b) to obtain the skills assessment mentioned in subclause 475.212 (1); or
 - (c) to satisfy Subdivision 475.21; or
 - (d) to satisfy clause 475.221;
- was false or misleading in a material particular.
- 475.224 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.
- 475.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 475.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 475 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 475.227 Each member of the family unit of the applicant, who is not an applicant for a Subclass 475 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.
- 475.228 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.

475.229 Grant of the visa would not result in either:

- (a) the number of Subclass 475 visas granted in a financial year exceeding the maximum number of Subclass 475 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 475) 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.

475.230 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.

475.3 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.

475.31 Criteria to be satisfied at time of application

475.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 475.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 475 visa.

475.32 Criteria to be satisfied at time of decision

- 475.321 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 475 visa.
- 475.322 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.
- 475.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 475.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 475.325 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.

475.4 Circumstances applicable to grant

- 475.411 (1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.
- (2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.

475.412 In any other case, an applicant may be in or outside Australia when the visa is granted.

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

475.5 When visa is in effect

475.511 (1) If the applicant satisfied the primary criteria for the grant of the visa, and is in Australia at the time of grant — a temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of grant.

(2) If the applicant satisfied the primary criteria for the grant of the visa, and is outside Australia at the time of grant — a temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of first entry.

(3) If the applicant satisfied the secondary criteria for the grant of the visa — a temporary visa permitting the holder to travel to, enter and remain in Australia until the date specified for the applicant who satisfied the primary criteria for the grant of the visa.

475.6 Conditions

475.611 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
- (c) condition 8515 may be imposed.

475.612 If the applicant was nominated by a State or Territory government as described in subitem 1228 (3A) of Schedule 1, condition 8539 must be imposed.

475.613 If the applicant was sponsored by a person as described in subclause 475.222 (3), condition 8549 must be imposed.

475.7 Way of giving evidence

475.711 No evidence need be given.

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

Subclass 476 Skilled — Recognised Graduate

476.1 Interpretation

476.111 In this Part:

completed, in relation to a degree, means having met the academic requirements for the award of the degree.

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

Note Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

476.2 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.

476.21 Criteria to be satisfied at time of application

476.211 The applicant:

- (a) has not previously held a Subclass 476 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 (Skilled — Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

476.212 The applicant has completed a course:

- (a) in the period of 24 months ending immediately before the day on which the application is made; and
- (b) at an institution specified by the Minister in an instrument in writing for this paragraph;

for the award of a degree or higher qualification in a discipline specified in an instrument in writing for this clause.

476.213 The applicant has competent English.

476.22 Criteria to be satisfied at time of decision

- 476.221 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1228 of Schedule 1; or
 - (b) to satisfy Subdivision 476.21;
- was false or misleading in a material particular.
- 476.222 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.
- 476.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 476.224 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 476 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 476.225 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.
- 476.226 Grant of the visa would not result in either:
- (a) the number of Subclass 476 visas granted in a financial year exceeding the maximum number of Subclass 476 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 476) 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.

476.227 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.

476.3 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.

476.31 Criteria to be satisfied at time of application

476.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 476.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 476 visa.

476.32 Criteria to be satisfied at time of decision

476.321 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 476 visa.

476.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and

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- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 476.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 476.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 476.325 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.

476.4 Circumstances applicable to grant

- 476.411 (1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.
- (2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.
- 476.412 In any other case, an applicant may be in or outside Australia when the visa is granted.

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

476.5 When visa is in effect

- 476.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

476.6 Conditions

- 476.611 If the applicant is outside Australia when the visa is granted:
- (a) first entry must be made before a date specified by the Minister for the purpose; and
 - (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
 - (c) condition 8515 may be imposed.

476.7 Way of giving evidence

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

Subclass 485 Skilled — Graduate

485.1 Interpretation

485.111 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 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 2 Regulation 1.03 provides that *competent English* has the meaning set out in 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.

485.2 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.

485.21 Criteria to be satisfied at time of application

485.211 The requirements of subitem 1229 (4) of Schedule 1 are met.

485.212 The applicant:

- (a) has not previously held a Subclass 476 (Skilled — Recognised Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

485.213 The following requirements are met:

- (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;
- (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

485.214 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.

485.215 The applicant has competent English.

485.216 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.

485.217 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.

485.22 Criteria to be satisfied at time of decision

- 485.221 (1) The skills of the applicant for the applicant's nominated skilled occupation have been assessed by the relevant assessing authority as suitable for that 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.
- 485.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1229 of Schedule 1; or
 - (b) to satisfy Subdivision 485.21; or
 - (c) to obtain the skills assessment mentioned in subclause 485.221 (1);
- was false or misleading in a material particular.
- 485.224 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.
- 485.225 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 485.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 485 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 485.227 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.

485.228 Grant of the visa would not result in either:

- (a) the number of Subclass 485 visas granted in a financial year exceeding the maximum number of Subclass 485 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 485) 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.

485.229 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.

485.3 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.

485.31 Criteria to be satisfied at time of application

485.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 485.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 485 visa.

485.32 Criteria to be satisfied at time of decision

485.321 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 485 visa.

485.322 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.

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

485.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

485.325 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.

485.4 Circumstances applicable to grant

485.411 (1) The applicant who satisfies the primary criteria for the grant of the visa, and each applicant who made a combined application with the applicant, must be in Australia when the visa is granted.

(2) In any other case, the applicant may be in or outside Australia when the visa is granted.

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

485.5 When visa is in effect

485.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

485.6 Conditions

485.611 Condition 8501 may be imposed.

485.612 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

485.7 Way of giving evidence

485.711 No evidence need be given.

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

Subclass 487 Skilled — Regional Sponsored

487.1 Interpretation

487.111 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 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 3 Regulation 1.03 provides that *concessional competent English* has the meaning set out in regulation 1.15E.

Note 3 For *concessional competent English*, see regulation 1.15E.

Note 3A For *designated area*, see regulation 1.03.

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

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

487.2 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.

487.21 Criteria to be satisfied at time of application

487.211 For an applicant who met the requirements of subitem 1229 (8) of Schedule 1, no requirements of this Subdivision need be met.

487.212 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) The applicant met the requirements of subitem 1229 (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 subclause 1229 (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 1229 (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.

(5) The applicant met the requirements of subitem 1229 (7) of Schedule 1, and:

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- (a) if the applicant holds a Subclass 417 (Working Holiday) visa, the applicant must have held that visa for at least 6 months; or
- (b) if the applicant holds a Subclass 442 (Occupational Trainee) visa, the applicant must have completed the traineeship for which the visa was granted.
- 487.214 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.
- 487.215 Either:
- (a) the applicant has concessional competent English; or
- (b) the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for this paragraph.
- 487.216 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.
- 487.217 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.
- 487.22 Criteria to be satisfied at time of decision**
- 487.221 If the requirements of subitem 1229 (8) of Schedule 1 have been met, clauses 487.226 to 487.234 only must be satisfied.
- 487.222 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 2.6 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).

487.223 (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.

487.224 If the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for paragraph 487.215 (b), the applicant has concessional competent English.

487.225 (1) Either:

(a) if the applicant was nominated by a State or Territory government agency in accordance with subitem 1229 (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 1229 (3B) at the time of making the application — the requirements of subclause (3) are met.

(2) The Minister has accepted the nomination mentioned in subitem 1229 (3A) of Schedule 1.

(3) All of the following requirements are met:

(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

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- (iii) is usually resident in a designated area of 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 487 (Skilled — Regional Sponsored) visa), as:
 - (A) a parent; or
 - (B) a child or 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; or
 - (F) a grandparent or first cousin;
 - (b) the sponsorship was made:
 - (i) on Form 1277 (Internet), and the Minister has accepted the sponsorship; 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.

- 487.226 The applicant, and each person included in the application, who made the application on the basis of being 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; has substantially complied with the conditions to which that visa is or was subject.
- 487.227 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 item 1229 of Schedule 1; or
 - (c) to satisfy Subdivision 487.21; or
 - (d) to satisfy clause 487.222; or
 - (e) to obtain the skills assessment mentioned in subclause 487.223 (1);
- was false or misleading in a material particular.
- 487.228 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
 - (b) if the applicant was the holder, at the time of application, of:
 - (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; andsatisfies public interest criterion 4007; and

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- (c) if paragraph (b) does not apply — satisfies public interest criterion 4005; and
- (d) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 487.229 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 487.230 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 487 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
- (e) either:
- (i) if the person was the holder, at the time of application, 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;
- satisfies public interest criterion 4007;
- (ii) in any other case — satisfies public interest criterion 4005; and
- (f) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (g) satisfies special return criteria 5001, 5002 and 5010.
- 487.231 Each member of the family unit of the applicant who is not an applicant for a Subclass 487 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) either:
- (i) if the person was the holder, at the time of application, 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;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.

487.232 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.

487.233 Grant of the visa would not result in either:

- (a) the number of Subclass 487 visas granted in a financial year exceeding the maximum number of Subclass 487 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 487) 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.

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- 487.234 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.

487.3 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.

487.31 Criteria to be satisfied at time of application

- 487.311 The applicant:
- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 487.21, and made a combined application with that person; or
 - (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 487 visa.

487.32 Criteria to be satisfied at time of decision

- 487.321 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 487 visa.
- 487.322 If the applicant made the application on the basis of being 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 has substantially complied with the conditions to which that visa is or was subject.

- 487.323 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 487.324 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
 - (b) if the applicant was the holder, at the time of application, of:
 - (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; andsatisfies public interest criterion 4007; and
 - (c) if paragraph (b) does not apply — satisfies public interest criterion 4005; and
 - (d) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 487.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 487.326 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.

487.4 Circumstances applicable to grant

- 487.411 (1) The applicant who satisfies the primary criteria for the grant of the visa, and each applicant who made a combined application with the applicant, must be in Australia when the visa is granted.

(2) In any other case, the applicant may be in or outside Australia when the visa is granted.

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

487.5 When visa is in effect

487.511 (1) If:

- (a) the applicant who satisfied the primary criteria is in Australia at the time of application; and
- (b) at the time of application, the applicant who satisfied the primary criteria held any of the following visas:
 - (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;

temporary visa permitting the holder to travel to, enter and remain in Australia until 48 months after the date of grant of the visa mentioned in paragraph (b).

(2) In any other case:

- (a) if the applicant satisfied the primary criteria for the grant of the visa — temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of grant; or
- (b) if the applicant satisfied the secondary criteria for the grant of the visa — temporary visa permitting the holder to travel to, enter and remain in Australia until the date specified for the applicant who satisfies the primary criteria for the grant of the visa.

487.6 Conditions

- 487.611 If the applicant is outside Australia when the visa is granted:
- (a) first entry must be made before a date specified by the Minister for the purpose; and
 - (c) condition 8515 may be imposed.
- 487.612 If the applicant who satisfied the primary criteria for the grant of the visa was nominated by a State or Territory government as described in subitem 1229 (3A) of Schedule 1, condition 8539 must be imposed.
- 487.613 If the applicant who satisfied the primary criteria for the grant of the visa was sponsored by a person as described in subclause 487.225 (3), condition 8549 must be imposed.
- 487.614 (1) If:
- (a) the applicant met the requirements of subitem 1229 (8) of Schedule 1; and
 - (b) condition 8539 was imposed on the visa mentioned in that subitem;
- condition 8539 must be imposed.
- (2) If:
- (a) the applicant met the requirements of subitem 1229 (8) of Schedule 1; and
 - (b) condition 8549 was imposed on the visa mentioned in that subitem;
- condition 8549 must be imposed.

487.7 Way of giving evidence

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

Subclass 488 Superyacht Crew

488.1 Interpretation

Note *Member of the crew* and *superyacht* are defined in regulation 1.03. Regulation 1.15G is also relevant for the purposes of the definition of *superyacht*. There are no interpretation provisions specific to this Part.

488.2 Primary criteria

Note All applicants must satisfy the primary criteria.

488.21 Criteria to be satisfied at time of application

488.211 The applicant has turned 18.

488.212 The applicant is a member of the crew of a superyacht.

488.213 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

488.22 Criteria to be satisfied at time of decision

488.221 The applicant continues to satisfy the criteria in clauses 488.212 and 488.213.

488.222 The Minister is satisfied that:

- (a) a superyacht crew sponsor has agreed to be the superyacht crew sponsor in relation to the applicant; and
- (b) the superyacht crew sponsor is not barred from sponsoring the applicant under paragraph 140M (1) (c) of the Act; and
- (c) either:
 - (i) there is no adverse information known to Immigration about the superyacht crew sponsor mentioned in paragraph (a) or a person associated with that superyacht crew sponsor; or

- (ii) it is reasonable to disregard any adverse information known to Immigration about the superyacht crew sponsor mentioned in paragraph (a) or a person associated with that superyacht crew sponsor.

- 488.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 488.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 488.225 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.

488.3 Secondary criteria: Nil

Note All applicants must satisfy the primary criteria.

488.4 Circumstances applicable to grant

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

488.5 When visa is in effect

- 488.511 If the visa was granted to an applicant outside Australia — temporary visa permitting the holder:
 - (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.
- 488.512 If the visa was granted to an applicant in Australia — temporary visa permitting the holder:

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- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
 - (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

488.6 Conditions

488.611 Conditions 8107 and 8114.

488.7 Way of giving evidence

488.711 No evidence need be given.

Subclass 495 Skilled — Independent Regional (Provisional)

495.1 Interpretation

495.111 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).

vocational English has the meaning given in regulation 1.15B.

Note For *skilled occupation*, see regulation 1.03.

495.2 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.

495.21 Criteria to be satisfied at time of application

495.210A The application must be made before 1 September 2007.

495.210 For an applicant:

- (a) who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clauses 495.213, 495.214 and 495.219A only must be satisfied.

495.211 (1) Subject to subclause (2), the Minister is satisfied that the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified in an instrument in writing for this paragraph as available for the skilled occupation — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day when the application was made; or
- (b) if 40 or 50 points are specified in an instrument in writing for this paragraph as available for the skilled occupation — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day when 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 when 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 when 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; or
- (c) the applicant is the holder of:
- (i) a Working Holiday (Temporary) (Class TZ) visa; or
 - (ii) a Subclass 442 (Occupational Trainee) visa.
- 495.212 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 a substantive visa authorising him or her to work during that period and complied with the conditions to which that visa is or was subject; or
 - (b) held a Subclass 010 (Bridging A) or Subclass 020 (Bridging B) visa permitting him or her to work during that period and complied with the conditions to which that visa is or was subject.
- 495.213 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 Minister is satisfied that the applicant has complied with the conditions of that visa.

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- 495.214 If the applicant met the requirements of subitem 1218A (4) of Schedule 1 — 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.
- 495.215 For an applicant who met the requirements of subitem 1218A (5) of Schedule 1:
- (a) if a declaration was required to be made for paragraph 1218A (5) (i) of Schedule 1 — 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; and
 - (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1 — 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:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
 - (c) if a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 — 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; and
 - (d) if a declaration was required to be made for sub-subparagraph 1218A (5) (f) (i) (B) of Schedule 1 — the Minister is satisfied that the declaration is true; and
 - (e) if a declaration was required to be made for paragraph 1218A (5) (h), (k) or (l) of Schedule 1 — the Minister is satisfied that the declaration is true.

- 495.216 For an applicant who met the requirements of subitem 1218A (5A) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
 - (b) 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; and
 - (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has been in Australia as the holder of a Working Holiday (Temporary) (Class TZ) visa for a period of at least 6 months immediately before the day when the application is made.
- 495.217 For an applicant who met the requirements of subitem 1218A (5B) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
 - (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the

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- 12 months immediately before the day when the application is made; and
- (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.
- 495.218 For an applicant who met the requirements of paragraph 1218A (6) (b) of Schedule 1 — the Minister is satisfied that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
- 495.219 If a declaration was required to be made for subparagraph 1218A (6) (a) (i) of Schedule 1 in relation to the applicant — the Minister is satisfied that the declaration is true.
- 495.219A The Minister is satisfied that the applicant is sponsored by a State or Territory government agency.
- 495.22 Criteria to be satisfied at time of decision**
- 495.220 For an applicant:
- (a) who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;
- clauses 495.224, 495.225, 495.226, 495.227, 495.229, 495.230, 495.233 and 495.234 only must be satisfied.
- 495.221 If regulation 2.27B applies:
- (a) the applicant provides, for the application, the assessment of his or her skills mentioned in subregulation 2.27B (4); and
 - (b) the skills of the applicant for the skilled occupation have been assessed by the relevant assessing authority as suitable for that occupation.

- 495.222 (1) If the applicant:
- (a) was an applicant for a Skilled — Independent (Migrant) (Class BN) visa; and
 - (b) was invited by the Minister, under regulation 2.08DA, to apply for a Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (c) made the application for the Skilled — Independent Regional (Provisional) (Class UX) visa not later than 6 months after the day when the applicant received the invitation;

the applicant's assessed score for the Skilled — Independent (Migrant) (Class BN) visa is equal to or greater than the applicable pass mark for the Skilled — Independent Regional (Provisional) (Class UX) visa.

- (2) If subclause (1) does not apply, the applicant has the qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note Subdivision B of Division 3 of Part 2 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 of Part 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 (Act, section 96).

- 495.223 The applicant has vocational English.
- 495.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 495.21, or to meet the requirements of item 1218A of Schedule 1, was false or misleading in a material particular.
- 495.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010.
- 495.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

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- 495.227 The applicant is sponsored by a State or Territory government agency, the sponsorship has been accepted by the Minister, and the sponsorship is still in force.
- 495.229 Each member of the family unit of the applicant who is an applicant for a Subclass 495 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 495.230 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 for the additional applicant.
- 495.231 Grant of the visa would not result in either:
- (a) the number of Subclass 495 visas granted in a financial year exceeding the maximum number of Subclass 495 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 495) 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.
- 495.232 (1) A relevant assessing authority has assessed the skills of the applicant as suitable for his or her 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 full time study of a registered course.

- 495.233 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 495.234 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.
- 495.235 If the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included (or, under subregulation 2.26A (5A), was taken to have included) the bonus points relating to a designated security mentioned in paragraph (a) of item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least AUD100 000 in a designated security for a term of not less than 12 months.

495.3 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.

495.31 Criteria to be satisfied at time of application

- 495.311 The applicant:
- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 495.21, and has made a combined application with that person; or
 - (b) is a member of the family unit of a person who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa.
- 495.312 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.

495.313 If a declaration was required to be made for paragraph 1218A (4) (b) of Schedule 1 in relation to the applicant — 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.

495.314 If a declaration was required to be made for subitem 1218A (5) of Schedule 1 in relation to the applicant:

- (a) if a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1 in relation to the applicant — 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:
- (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
- (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 in relation to the applicant — 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; and
- (c) if a declaration was required to be made for paragraph 1218A (5) (k) or (l) of Schedule 1 in relation to the applicant — the Minister is satisfied that the declaration is true.

- 495.315 If a declaration was required to be made for paragraph 1218A (5A) (c) of Schedule 1 in relation to the applicant — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
 - (b) 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.
- 495.316 If a declaration was required to be made for paragraph 1218A (5B) (c) of Schedule 1 in relation to the applicant — the Minister is satisfied that:
- (a) the applicant undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
 - (b) 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.

495.32 Criteria to be satisfied at time of decision

- 495.321 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 495 visa.
- 495.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010.
- 495.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 495.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied for the applicant.
- 495.326 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 495.327 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.

495.4 Circumstances applicable to grant

- 495.411 If the applicant:
- (a) meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1; or
 - (b) is a member of the family unit of a person who meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1, and made a combined application with that person;
- the applicant may be in Australia (but not in immigration clearance) or outside Australia when the visa is granted.

495.412 In any other case, the applicant must be outside Australia when the visa is granted.

495.5 When visa is in effect

495.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

495.6 Conditions

495.611 If the applicant is outside Australia at time of grant, first entry must be made before a date specified by the Minister for the purpose.

495.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

495.613 Condition 8515 may be imposed.

495.614 Condition 8539 must be imposed.

495.7 Way of giving evidence

495.711 No evidence need be given.

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

Subclass 496 Skilled — Designated Area-sponsored (Provisional)

496.1 Interpretation

496.111 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*, *registered course*, *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

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

496.2 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.

496.21 Criteria to be satisfied at time of application

496.210 The application must be made before 1 September 2007.

496.211 For an applicant:

- (a) who is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
- (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clause 496.212 only must be satisfied.

496.212 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 496 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.
- 496.213 The sponsor:
- (a) is resident in a designated area; and
 - (b) was resident in 1 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).
- 496.214 The applicant has nominated a skilled occupation in his or her application.
- 496.215 (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.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies:
 - (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

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- (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:
- (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) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was 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.
- 496.216 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 Bridging A (Class WA) visa; or
 - (iii) a Bridging B (Class WB) visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 496.22 Criteria to be satisfied at time of decision**
- 496.221 For an applicant:
 - (a) who is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;clause 496.222 and clauses 496.227 to 496.234 only must be satisfied.
- 496.222 The sponsorship given with the applicant's application under paragraph 1226 (3) (g) of Schedule 1 has been approved by the Minister and is still in force.
- 496.223 The sponsor is still resident in a designated area.
- 496.224 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).
- 496.225 If the assessment mentioned in paragraph 1226 (3) (f) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student

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- visa, the qualification was obtained as a result of full-time study of a registered course.
- 496.226 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 suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that the applicant has paid any fee or charge for that training.
- 496.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1226 (3) (f) of Schedule 1 is false or misleading in a material particular.
- 496.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 496.229 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 496.230 If the applicant held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa at the time of application, the applicant has complied with the conditions of that visa.
- 496.231 Each member of the family unit of the applicant who is an applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) 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.
- 496.232 Each member of the family unit of the applicant who is not an applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) 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.

496.233 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.

496.234 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.

496.3 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.

496.31 Criteria to be satisfied at time of application

496.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 496.21; or
- (b) is a member of the family unit of the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.

496.312 The sponsorship given for the person who satisfies the primary criteria under paragraph 1226 (3) (g) of Schedule 1 includes sponsorship of the applicant.

496.32 Criteria to be satisfied at time of decision

- 496.321 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 (Provisional) (Class UZ) visa.
- 496.322 The sponsorship mentioned in clause 496.312 has been approved by the Minister and is still in force.
- 496.323 If the applicant held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa at the time of application, the applicant has complied with the conditions of the visa.
- 496.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 496.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 496.326 If the applicant is under 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 496.327 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.

496.4 Circumstances applicable to grant

- 496.411 An applicant who, at the time of application, is not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa must be outside Australia when the visa is granted.

496.412 An applicant who, at the time of application, is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa 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.

496.5 When visa is in effect

496.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

496.6 Conditions

496.611 If the applicant is outside Australia at the time of grant, first entry must be made before a date specified by the Minister for the purpose.

496.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

496.613 Condition 8515 may be imposed.

496.614 Condition 8549 is imposed.

496.7 Way of giving evidence

496.711 No evidence need be given.

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

Subclass 497 Graduate — Skilled

497.1 Interpretation

Note There are no interpretation provisions specific to this Part.

497.2 Primary criteria

497.21 Criteria to be satisfied at time of application

497.210 The application must be made before 1 September 2007.

497.211 The applicant has complied substantially with the conditions to which the visa held by the applicant is subject.

Note The requirements for making a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa are set out in item 1212A of Schedule 1.

497.22 Criteria to be satisfied at time of decision

497.221 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

497.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.

497.223 The Minister is satisfied that the expressed intention of the applicant to make a valid application for a Skilled — Independent Overseas Student (Class DD), Skilled — Australian-sponsored Overseas Student (Class DE) or Skilled — Independent Regional (Provisional) (Class UX) visa is genuine.

497.224 There is no evidence that the applicant will not be able to make a valid application for a Skilled — Independent Overseas Student (Class DD), Skilled — Australian-sponsored Overseas Student (Class DE) or Skilled — Independent Regional (Provisional) (Class UX) visa.

497.225 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.

497.3 Secondary criteria

497.31 Criteria to be satisfied at time of application

497.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 497.21 (the *primary applicant*) and:

- (a) the applicant has made a combined application with the primary applicant; and
- (b) the Minister has not decided to grant or refuse to grant a Graduate — Skilled (Temporary) (Class UQ) visa to the primary applicant.

497.32 Criteria to be satisfied at time of decision

497.321 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 497 visa.

497.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.

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

497.324 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.

497.4 Circumstances applicable to grant

497.411 The applicant must be in Australia at the time of grant.

497.5 When visa is in effect

497.511 Temporary visa permitting the holder to travel to, enter and remain in Australia for a period (not longer than 6 months

after the date of grant of the visa) specified by the Minister for the purpose.

497.6 Conditions

- 497.611 If the applicant satisfies the primary criteria, condition 8501.
497.612 If the applicant satisfies the secondary criteria, conditions 8501 and 8522.

497.7 Way of giving evidence

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

Subclass 570 Independent ELICOS Sector

570.1 Interpretation

570.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note *foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

570.2 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.

570.21 Criteria to be satisfied at time of application

- 570.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));

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- (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
- (b) the last substantive visa held by the applicant was:
- (i) a student visa; or
- (ii) a special purpose visa; or
- (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
- (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
- (i) the day when that last substantive visa ceased to be in effect; or
- (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
- (A) the day when that last substantive visa ceased to be in effect; and
- (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant:
- (i) is the holder of a Subclass 560, 562 or 570 visa that is subject to condition 8101; or

- (ii) is the holder of a Subclass 572 visa:
 - (A) granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (B) that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced an ELICOS.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 560, 562 or 570 visa; or
 - (ii) is the holder of a Subclass 572 visa granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the ELICOS for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 571, 572, 573, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the course, or courses, of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

570.22 Criteria to be satisfied at time of decision

- 570.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.211 (4) or (5), the applicant satisfies the criteria in clauses 570.222 to 570.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 570.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 570.211 (4) (a); and
- (b) either:
- (i) both of the following:
- (A) the Minister has no reason to believe that the applicant is not a genuine student;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.224 (ba); or
- (ii) the applicant satisfies the criteria in clauses 570.223 to 570.234.
- (3) If, at the time of application, the applicant met the requirements of subclause 570.211 (5):
- (a) the applicant continues to meet the requirements of paragraphs 570.211 (5) (a) and (d); and
- (b) either:
- (i) the Minister has no reason to believe that the applicant is not a genuine student; or
- (ii) the applicant satisfies the criteria in clauses 570.222 to 570.234.
- 570.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a full-time ELICOS (*an acceptable ELICOS*):
- (a) that has been gazetted under regulation 1.40A; and
- (b) the provider of which is not a suspended education provider.
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel

urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable ELICOS.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable ELICOS.

570.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

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

(a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 570 and the assessment level to which the applicant is subject, in relation to:

(i) the applicant's English language proficiency for the purposes of each ELICOS that the applicant proposes to undertake; and

(ii) the financial capacity of the applicant to undertake each of those ELICOS without contravening any condition of the visa relating to work; and

(iii) other requirements under Schedule 5A; and

(b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

(i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(ii) any other relevant matter; and

(c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

570.224 The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and

(b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and

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- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 570.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 570.227 If:
- (a) the application was made in Australia; and
- (b) subject to clause 570.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 570.211:
- (i) as the holder of a visa of one of the following classes:
- (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);

- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 570 visa.

- 570.227A For paragraph 570.227 (b), the highest assessment level does not include assessment level 1.
- 570.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.
- 570.229 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

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- 570.230 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking an ELICOS.
- 570.230A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 570.231 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 570.232 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 570 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 570.233 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 570.234 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 570.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or

applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

570.3 Secondary criteria

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

570.31 Criteria to be satisfied at time of application

570.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 570.21.

570.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if the applicant is the holder of:

- (a) a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);

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- (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) a special purpose visa; or
 - (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 570.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
 - (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563, 570 or 572 visa that is subject to condition 8101; and
 - (b) for an applicant who is the holder of a Subclass 560, 563 or 570 visa, the applicant:
 - (i) is a member of the family unit of a person (the **primary person**) who holds a Subclass 560, 562 or 570 visa; and
 - (ii) gives to the Minister evidence that the primary person has commenced an ELICOS; and

- (c) for an applicant who is the holder of a Subclass 572 visa:
 - (i) the visa was granted on the basis that the applicant was a member of the family unit of a person (the *primary person*) who was the holder of a student visa granted on the basis that the primary person proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (ii) the applicant gives to the Minister evidence that the primary person has commenced an ELICOS; and
- (d) the application was made on form 157P or 157P (Internet).
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person:
 - (i) who is the holder of a Subclass 560, 562 or 570 visa, having satisfied the primary criteria for that visa; or
 - (ii) who is the holder of a Subclass 572 visa granted on the basis that the person proposed to commence, or had commenced, an ELICOS as a principal course.

570.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 570 or 572 visa to the primary applicant was made.

570.315 The applicant is not a secondary exchange student.

570.32 Criteria to be satisfied at time of decision

570.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.312 (4), the applicant satisfies the criteria in clauses 570.322 to 570.332.

(2) If, at the time of application, the applicant met the requirements of subclause 570.312 (4):

- (a) the applicant continues to meet the requirements of paragraphs 570.312 (4) (a) and (c); and
- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.323 (b); or
 - (ii) the applicant satisfies the criteria in clauses 570.322 to 570.332.

570.322 The applicant is a member of the family unit of a person (the **primary person**):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
 - (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or

- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 570.21 and 570.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

570.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

570.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.

570.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

570.326 The Minister is satisfied that:

- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322; and
- (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and

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- (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
- (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.
- 570.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 570.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 570.322; and
- (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 570.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 570.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 570.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.
- 570.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 570.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

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- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

570.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

570.334 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.

570.4 Circumstances applicable to grant

570.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

570.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

570.5 When visa is in effect

- 570.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

570.6 Conditions

- 570.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 570.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 570.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 570.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);
- condition 8534 may be imposed.

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- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A208 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 570 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A208 (2).

- 570.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

- 570.615 (1) If the applicant (the *primary applicant*) is seeking to undertake an ELICOS that is, or ELICOS that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 570.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivision 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.
- 570.617 If the applicant satisfies the secondary criteria, condition 8104.

570.7 Way of giving evidence

570.711 No evidence need be given.

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

Subclass 571 Schools Sector

571.1 Interpretation

571.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means:

- (a) in relation to a secondary exchange student — a full-time course of study under a secondary school student exchange program approved by the State or Territory education authority that administers the program; or
- (b) in any other case — a full-time registered course of study.

Note 1 *secondary exchange student* is defined in regulation 1.03.

Note 2 To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note *foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

571.2 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.

571.21 Criteria to be satisfied at time of application

- 571.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));

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- (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.

- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 570, 572, 573, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) except if the applicant is a secondary exchange student, the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

571.22 Criteria to be satisfied at time of decision

571.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.211 (4), the applicant satisfies the criteria in clauses 571.222 to 571.236.

(2) If, at the time of application, the applicant met the requirements of subclause 571.211 (4):

- (a) the applicant continues to meet the requirements of paragraph 571.211 (4) (a); and
- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 571.223 to 571.236.

571.222 (1) Except if:

- (a) subclause (2) applies; or
- (b) the application was made on form 157E; or
- (c) the applicant is a secondary exchange student;

the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the

provider of which is not a suspended education provider (*an acceptable course*).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

(4) If the applicant is a secondary exchange student, the applicant is enrolled in an acceptable course.

571.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

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

(a) for an applicant who is not a person designated under regulation 2.07AO:

(i) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and

(ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

(A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(B) any other relevant matter; and

(iii) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity; or

- (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
 - (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant has access to sufficient funds of the person's own or provided by a relative; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

571.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

571.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

571.227 If:

- (a) the application was made in Australia; and
- (b) subject to clause 571.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 571.211:
 - (i) as the holder of a visa of one of the following classes:

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- (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 571 visa.

- 571.227A For paragraph 571.227 (b), the highest assessment level does not include assessment level 1.
- 571.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.
- 571.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 571.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 571.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 571.231 If the applicant is subject to assessment level 3, the Minister is satisfied that the applicant is of an age that is appropriate to the entry level for the applicant's principal course.
- 571.232 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and

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- (b) of a type that was specified for Subclass 571 visas by the Minister in a Gazette Notice:
- (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 571.233 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 571.234 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 571.235 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 571.236 If the applicant is not a secondary exchange student, the year or level of school study that the applicant intends to undertake must not be a year or level that is more than 18 months below a year or level that the applicant has previously undertaken in Australia or another country.
- 571.237 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

571.3 Secondary criteria

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

571.31 Criteria to be satisfied at time of application

- 571.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 571.21.
- 571.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or

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- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 571.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 571 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 571 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 571 student visa, having satisfied the primary criteria for that visa.

571.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 571 visa to the primary applicant was made.

571.32 Criteria to be satisfied at time of decision

571.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.312 (4), the applicant satisfies the criteria in clauses 571.322 to 571.332.

(2) If, at the time of application, the applicant met the requirements of subclause 571.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 571.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.323 (b); or

(ii) the applicant satisfies the criteria in clauses 571.322 to 571.332.

571.322 The applicant is a member of the family unit of a person (the **primary person**):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

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- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 571.21 and 571.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

571.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 571.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 571.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 571.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.
- 571.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 571.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 571.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 571.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 571.322:
- (a) the primary person is, or is expected soon to be, in Australia; and

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- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 571.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.
- 571.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 571.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (2) applies; and
- (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 571 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 571.2; and
- (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
- (i) fully funded; or
- (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
- (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 571 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 571.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

571.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

571.334 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

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

571.4 Circumstances applicable to grant

- 571.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 571.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

571.5 When visa is in effect

- 571.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

571.6 Conditions

- 571.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and
- (e) subject to clause 571.612, any 1 or more of conditions 8303, 8523, 8534 and 8535 may be imposed.
- 571.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 571.613 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
- (i) conditions 8501 and 8516; and
- (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
- (b) if the applicant is a citizen of Iran, condition 8204; and

- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

571.614 If the applicant satisfies the secondary criteria, condition 8104.

571.7 Way of giving evidence

571.711 No evidence need be given.

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

Subclass 572 Vocational Education and Training Sector

572.1 Interpretation

572.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

572.2 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.

572.21 Criteria to be satisfied at time of application

- 572.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);

- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate — Skilled).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate — Skilled) visa; and

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- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
- (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 572 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 573, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

572.22 Criteria to be satisfied at time of decision

- 572.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.211 (4), the applicant satisfies the criteria in clauses 572.222 to 572.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 572.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 572.211 (4) (a); and
- (b) either:
- (i) both of the following:
- (A) the Minister has no reason to believe that the applicant is not a genuine student;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.224 (ba); or
- (ii) the applicant satisfies the criteria in clauses 572.223 to 572.234.
- 572.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 572.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

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- (2) An applicant meets the requirements of this subclause if:
- (a) for an applicant who is not a person designated under regulation 2.07AO:
 - (i) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter; and
 - (iii) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity; or
 - (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
 - (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant has access to sufficient funds of the person's own or provided by a relative; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

572.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and

- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 572.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.227 If:
- (a) the application was made in Australia; and
 - (b) subject to clause 572.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
 - (c) at the time of application, the applicant met the requirements of clause 572.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);

- (N) Temporary Business Entry (Class UC);
- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (BA) Subclass 485 (Skilled — Graduate);
 - (C) Subclass 497 (Graduate — Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 572 visa.

- 572.227A For paragraph 572.227 (b), the highest assessment level does not include assessment level 1.
- 572.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.
- 572.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or

- (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 572.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 572.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 572.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
 - (a) a principal course; and
 - (b) of a type that was specified for Subclass 572 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 572.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 572.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 572.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:

- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
- (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

572.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

572.3 Secondary criteria

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

572.31 Criteria to be satisfied at time of application

572.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 572.21.

572.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);

- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
- (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 572.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563 or 572 visa that is subject to condition 8101; and

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- (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 572 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 572 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 572 student visa, having satisfied the primary criteria for that visa.
- 572.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 572 visa to the primary applicant was made.
- 572.315 The applicant is not a secondary exchange student.

572.32 Criteria to be satisfied at time of decision

- 572.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.312 (4), the applicant satisfies the criteria in clauses 572.322 to 572.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 572.312 (4):
- (a) the applicant continues to meet the requirements of paragraphs 572.312 (4) (a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry

- and stay as a member of the family unit of the primary person mentioned in clause 572.322;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.323 (b); or
- (ii) the applicant satisfies the criteria in clauses 572.322 to 572.332.
- 572.322 The applicant is a member of the family unit of a person (the **primary person**):
- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:
- (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;
- Note* Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.
- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
- (A) the Commonwealth or the government of a State or Territory; or
- (B) the government of a foreign country; or
- (C) a multilateral agency;
- (iii) the primary person:
- (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
- (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 572.21 and 572.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

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- (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
- (iii) the primary person:
- (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.
- 572.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 572.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 572.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 572.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

- 572.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 572.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 572.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 572.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 572.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 572.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 572.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

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- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 572 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 572.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

- (3) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 572 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 572.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or

(ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:

- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
- (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

572.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

572.334 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.

572.4 Circumstances applicable to grant

572.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

572.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

572.5 When visa is in effect

572.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

572.6 Conditions

- 572.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 572.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 572.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 572.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and

- (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A408 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 572 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A408 (2).

- 572.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 572.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 572.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and

- (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

572.617 If the applicant satisfies the secondary criteria, condition 8104.

572.7 Way of giving evidence

572.711 No evidence need be given.

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

Subclass 573 Higher Education Sector

573.1 Interpretation

573.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note ***foreign country*** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

573.2 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.

573.21 Criteria to be satisfied at time of application

573.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);

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- (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate — Skilled).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate — Skilled) visa; and

- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of:
 - (i) a Subclass 560, 562 or 573 visa that is subject to condition 8101; or
 - (ii) a Subclass 574 visa that is subject to condition 8101 and was granted on the basis that the applicant proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 570, 571, 572, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and

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- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

573.22 Criteria to be satisfied at time of decision

- 573.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.211 (4), the applicant satisfies the criteria in clauses 573.222 to 573.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 573.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 573.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 573.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 573.223 to 573.234.
- 573.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

573.223

(1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

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

(a) for an applicant who is not a person designated under regulation 2.07AO:

(i) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and

(ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

(A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(B) any other relevant matter; and

(iii) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity; or

(b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:

(i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant has access to sufficient funds of the person's own or provided by a relative; and

(ii) the applicant's proficiency in English is appropriate to the proposed course of study; and

(iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:

(A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(B) any other relevant matter.

573.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

573.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

573.227 If:

- (a) the application was made in Australia; and
- (b) subject to clause 573.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 573.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);

- (L) Short Stay (Visitor) (Class TR);
- (LA) Superyacht Crew (Temporary) (Class UW);
- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (BA) Subclass 485 (Skilled — Graduate);
 - (C) Subclass 497 (Graduate — Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 573 visa.

573.227A For paragraph 573.227 (b), the highest assessment level does not include assessment level 1.

573.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

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- 573.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 573.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 573.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 573.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 573 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 573.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 573.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

573.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:

- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
- (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

573.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

573.3 Secondary criteria

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

573.31 Criteria to be satisfied at time of application

573.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 573.21.

573.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);

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- (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 573.211 (3); and

- (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563, 573 or 574 visa that:
 - (i) for a holder of a Subclass 574 visa — was granted on the basis that:
 - (A) the applicant was a member of the family unit of a person (the *primary person*) who satisfied the primary criteria in Division 574.2; and
 - (B) the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (ii) for all holders — is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562, 573 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562, 573 or 574 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person (the *primary person*) who:
 - (i) holds a Subclass 560, 562 or 573 visa, having satisfied the primary criteria for that visa; or
 - (ii) holds a Subclass 574 visa that was granted on the basis that the primary person proposed to commence, or had commenced, as a principal

course, a course of study for the award of a masters degree by coursework.

573.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 573 or 574 visa to the primary applicant was made.

573.32 Criteria to be satisfied at time of decision

573.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.312 (4), the applicant satisfies the criteria in clauses 573.322 to 573.332.

(2) If, at the time of application, the applicant met the requirements of subclause 573.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 573.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 573.323 (b); or

(ii) the applicant satisfies the criteria in clauses 573.322 to 573.332.

573.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 573.21 and 573.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

573.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and

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- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 573.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 573.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 573.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.
- 573.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 573.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 573.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

- 573.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 573.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 573.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 573.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 573.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is:
 - (i) the holder of a Subclass 573 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 573.2; or
 - (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a

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- principal course, a course of study for the award of a masters degree by coursework; and
- (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is:
 - (i) the holder of a Subclass 573 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 573.2; or
 - (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a

principal course, a course of study for the award of a masters degree by coursework; and

- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

573.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

573.334 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.

573.4 Circumstances applicable to grant

573.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

573.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

573.5 When visa is in effect

573.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

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- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

573.6 Conditions

573.611 If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 573.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

573.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.

573.613 (1) If the applicant:

- (a) satisfies the primary criteria; and
- (b) is subject to assessment level 3, 4 or 5; and
- (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
- (d) is not an applicant to whom subclause (2) applies; condition 8534.

(2) If the applicant:

- (a) satisfies the primary criteria; and
- (b) is subject to assessment level 3; and
- (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.

(3) For subclause (2), the evidence is:

- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:

- (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
- (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A508 (1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 573 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
funds from an acceptable source has the meaning given by subclause 5A508 (2).
- 573.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 573.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

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- 573.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.
- 573.617 If the applicant satisfies the secondary criteria, condition 8104.

573.7 Way of giving evidence

573.711 No evidence need be given.

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

Subclass 574 Postgraduate Research Sector

574.1 Interpretation

574.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

574.2 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.

574.21 Criteria to be satisfied at time of application

574.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);

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- (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate — Skilled).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or

- (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (v) a Subclass 497 (Graduate — Skilled) visa; and
- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 562 or 574 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and

- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

574.22 Criteria to be satisfied at time of decision

- 574.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.211 (4), the applicant satisfies the criteria in clauses 574.223 to 574.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 574.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 574.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 574.223 to 574.234.
- 574.222 (1) Except if subclause (2), (3) or (3A) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 560 or 562 visa, the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis.

(3A) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 574 visa (the *current visa*):

- (a) the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis; and
- (b) either:
 - (i) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for a continuous period of 6 months or less; or
 - (ii) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for more than 6 months and there are exceptional circumstances justifying the grant of the visa.

(4) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

574.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

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

- (a) for an applicant who is not a person designated under regulation 2.07AO:
 - (i) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and

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- (ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter; and
 - (iii) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity; or
- (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
- (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant has access to sufficient funds of the person's own or provided by a relative; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

574.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
 - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

574.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

574.227 If:

- (a) the application was made in Australia; and
- (b) subject to clause 574.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 574.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:

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- (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (BA) Subclass 485 (Skilled — Graduate);
 - (C) Subclass 497 (Graduate — Skilled); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 574 visa.

574.227A For paragraph 574.227 (b), the highest assessment level does not include assessment level 1.

574.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

574.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country,

- as the case requires, does not oppose the applicant undertaking a course of study.
- 574.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 574.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 574.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 574 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 574.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 574.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 574.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 574.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

574.3 Secondary criteria

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

574.31 Criteria to be satisfied at time of application

574.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 574.21.

574.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);

- (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 574.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 574 visa that is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 574 visa mentioned in paragraph (c) has commenced a course of study.

- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 574 student visa, having satisfied the primary criteria for that visa.

574.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 574 visa to the primary applicant was made.

574.32 Criteria to be satisfied at time of decision

574.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.312 (4), the applicant satisfies the criteria in clauses 574.322 to 574.332.

(2) If, at the time of application, the applicant met the requirements of subclause 574.312 (4):

- (a) the applicant continues to meet the requirements of paragraphs 574.312 (4) (a) and (c); and
- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.323 (b); or
 - (ii) the applicant satisfies the criteria in clauses 574.322 to 574.332.

574.322 The applicant is a member of the family unit of a person (the *primary person*):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

- (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 574.21 and 574.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

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- 574.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 574.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 574.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 574.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.
- 574.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 574.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 574.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

- 574.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 574.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 574.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 574.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 574.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 574 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 574.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:

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- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
 - (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 574 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 574.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
 - (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.

574.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

574.334 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.

574.4 Circumstances applicable to grant

574.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

574.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

574.5 When visa is in effect

574.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

574.6 Conditions

574.611 If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 574.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

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- 574.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 574.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);
- condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A608 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 574 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A608 (2).

574.613A (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that has been gazetted for subregulation 1.44 (2) and the applicant did not provide evidence of English language proficiency otherwise required under clause 5A604 or 5A607 of Schedule 5A, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

574.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.616 (1) If the applicant satisfies the secondary criteria:

(a) in all cases:

(i) conditions 8501 and 8516; and

(ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and

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- (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (e) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

574.617 If the applicant satisfies the secondary criteria, condition 8104.

574.7 Way of giving evidence

574.711 No evidence need be given.

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

Subclass 575 Non-Award Sector

575.1 Interpretation

575.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note 1 non-award course is defined in regulation 1.03.

Note 2 To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

575.2 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.

575.21 Criteria to be satisfied at time of application

575.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

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

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (xi) Retirement (Temporary) (Class TQ);

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- (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision

or the Minister's decision not to revoke the cancellation — the later of:

- (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 574 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

575.22 Criteria to be satisfied at time of decision

- 575.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.211 (4), the applicant satisfies the criteria in clauses 575.222 to 575.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 575.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 575.211 (4) (a); and

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- (b) either:
- (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 575.223 to 575.234.
- 575.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 575.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant gives the Minister evidence in accordance with the requirements mentioned in Schedule 5A for the highest assessment level for the applicant; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and

- (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.

575.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

575.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

575.227 If:

- (a) the application was made in Australia; and
- (b) subject to clause 575.227A, the applicant is subject to the highest assessment level for the relevant course of study; and
- (c) at the time of application, the applicant met the requirements of clause 575.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);

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- (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 575 visa.

575.227A For paragraph 575.227 (b), the highest assessment level does not include assessment level 1.

575.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

- 575.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a full-time non-award course.
- 575.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 575.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 575.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 575 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 575.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 575.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 575.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

- 575.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

575.3 Secondary criteria

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

575.31 Criteria to be satisfied at time of application

- 575.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 575.21.
- 575.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);

- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (ixa) Maritime Crew (Temporary) (Class ZM);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 575.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.

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- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 575 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 575 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 575 student visa, having satisfied the primary criteria for that visa.

575.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 575 visa to the primary applicant was made.

575.315 The applicant is not a secondary exchange student.

575.32 Criteria to be satisfied at time of decision

- 575.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.312 (4), the applicant satisfies the criteria in clauses 575.322 to 575.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 575.312 (4):
- (a) the applicant continues to meet the requirements of paragraphs 575.312 (4) (a) and (c); and
 - (b) either:
 - (i) both of the following:

- (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.323 (b); or
- (ii) the applicant satisfies the criteria in clauses 575.322 to 575.332.

575.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory; or

(B) the government of a foreign country; or

(C) a multilateral agency;

(iii) the primary person:

(A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or

(B) has been lawfully in Australia for 12 months or more; or

(b) who satisfies, or has satisfied, the primary criteria in Subdivisions 575.21 and 575.22 and who meets one of the following:

(i) the primary person is subject to assessment level 1 or 2;

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

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- (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.
- 575.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 575.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 575.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 575.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (d) if the applicant is required to give evidence in accordance with Schedule 5B — while the applicant holds the visa, the applicant or the primary person will have access to the funds demonstrated or declared in accordance with the requirements in that Schedule.

- 575.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 575.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 575.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 575.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 575.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 575.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 575.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 575.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.

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- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 575 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 575.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

- (3) If the applicant:
- (a) is a member of the family unit of a person (the ***primary person***) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 575 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 575.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or

(ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:

(A) a provincial or state government in a foreign country, with the written support of the government of that country; or

(B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

575.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

575.334 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.

575.4 Circumstances applicable to grant

575.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

575.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

575.5 When visa is in effect

575.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and

(b) otherwise — until a date specified by the Minister.

575.6 Conditions

- 575.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 575.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 575.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 575.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and

- (b) evidence that the applicant has a further amount, specified by the Minister in an instrument in writing for this paragraph, in funds from an acceptable source; and
- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A708 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 575 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A708 (2).

- 575.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 575.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 575.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and

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- (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

575.617 If the applicant satisfies the secondary criteria, condition 8104.

575.7 Way of giving evidence

575.711 No evidence need be given.

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

Subclass 576 AusAID or Defence Sector

576.1 Interpretation

576.111 In this Part:

course of study means a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

576.2 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.

576.21 Criteria to be satisfied at time of application

576.211 (1) If the application is made in Australia, 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) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);

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- (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or

- (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 562 or 576 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study or training for which the visa held was granted; and
 - (d) the applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

576.22 Criteria to be satisfied at time of decision

- 576.221
- (1) Unless, at the time of application, the applicant met the requirements of subclause 576.211 (4), the applicant satisfies the criteria in clauses 576.222 to 576.232.
 - (2) If, at the time of application, the applicant met the requirements of subclause 576.211 (4):
 - (a) the applicant continues to meet the requirements of paragraph 576.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;

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- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.223 (ba); or
- (ii) the applicant satisfies the criteria in clauses 576.222 to 576.232.
- 576.222 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 576 and the assessment level to which the applicant is subject, in relation to:
- (i) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
- (ii) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
- (iii) other requirements under Schedule 5A; and
- (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
- (ii) any other relevant matter; and
- (c) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with the requirements in Schedule 5A relating to the applicant's financial capacity.
- 576.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and

- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 576.224 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.226 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.
- 576.227 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 576.228 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 576.229 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

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- 576.230 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 576.231 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 576.232 If the applicant is subject to assessment level 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 40 weeks.
- 576.233 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

576.3 Secondary criteria

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

576.31 Criteria to be satisfied at time of application

- 576.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 576.21.
- 576.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);

- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (ixa) Maritime Crew (Temporary) (Class ZM);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 576.211 (3); and

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- (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 576 visa that is subject to condition 8101 or 8104; and
- (b) the application was made on form 157P or 157P (Internet); and
- (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 576 visa; and
- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 576 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
- (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 576 student visa, having satisfied the primary criteria for that visa.
- 576.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 576 visa to the primary applicant was made.

576.32 Criteria to be satisfied at time of decision

- 576.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 576.312 (4), the applicant satisfies the criteria in clauses 576.322 to 576.333.
- (2) If, at the time of application, the applicant met the requirements of subclause 576.312 (4):
- (a) the applicant continues to meet the requirements of paragraphs 576.312 (4) (a) and (c); and

- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 576.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.323 (b); or
 - (ii) the applicant satisfies the criteria in clauses 576.322 to 576.333.
- 576.322 The applicant is a member of the family unit of a person (the *primary person*) who:
- (a) is the holder of a Subclass 560, 562 or 576 visa; and
 - (b) had the support of the AusAID Minister or the Defence Minister for the grant of that visa.
- 576.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 576.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 576.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 576.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 576.322; and
 - (b) the period of stay proposed in the application is more than 3 months;

the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.

- 576.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 576.322, the primary person is, or is expected soon to be, in Australia.
- 576.330 The Minister is satisfied that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 576.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 576.332 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.
- 576.333 (1) If:
- (a) the applicant is a member of the family unit of a person (the *primary person*) who is the holder of a Subclass 576 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Subdivision 576.21; and
 - (b) the primary person was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) the applicant was not included in the application for a student visa made by the primary person;
- the applicant must give evidence in accordance with Schedule 5B for assessment level 2.
- (2) If the applicant meets subclause (1), the Minister must also be satisfied that:
- (a) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (b) while the applicant holds the visa, the applicant or the primary person will have access to the funds

demonstrated or declared in accordance with the requirements in Schedule 5B.

576.334 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

576.335 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.

576.4 Circumstances applicable to grant

576.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

576.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

576.5 When visa is in effect

576.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

576.6 Conditions

576.611 If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8533 and 8535; and
- (c) if the applicant is a citizen of Iran, condition 8203; and

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- (d) subject to clause 576.612, 1 or both of conditions 8303 and 8523 may be imposed.
- 576.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 576.613 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 (as a person who satisfied the secondary criteria for the subclass) or 563 visa that was subject to condition 8101.
- 576.614 If the applicant satisfies the secondary criteria, condition 8104.

576.7 Way of giving evidence

576.711 No evidence need be given.

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

Subclass 580 Student Guardian

580.1 Interpretation

580.111 In this Part:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the nominating student;
- (d) the nominating student's spouse or de facto partner;
- (e) a parent of the nominating student;
- (f) a grandparent of the nominating student;
- (g) a brother or sister of the nominating student;
- (h) an aunt or uncle of the nominating student, if the aunt or uncle is usually resident in Australia and is:
 - (i) an Australian citizen; or
 - (ii) an Australian permanent resident; or
 - (iii) an eligible New Zealand citizen.

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

family applicant, for an applicant, means a member of the applicant's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the applicant.

financial institution means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the country in which it operates, that the Minister is satisfied provides effective prudential assurance.

first 12 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 24 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 24 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 36 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 36 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

full period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

living costs, for an applicant for a visa, means an amount worked out as follows:

- (a) for the applicant — an amount specified by the Minister in an instrument in writing for this paragraph (the **basic rate**); and
- (b) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and
- (c) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child.

money deposit means a money deposit with a financial institution.

nominating student, for an applicant, means a person who:

- (a) nominates the applicant on form 157N; and

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- (b) at the time of decision for the applicant, holds a student visa that was granted on the basis that the person met the primary criteria for the grant of the student visa; and
 - (c) if, at the time of decision for an applicant, there is more than 1 person who meets the requirements of paragraphs (a) and (b) — is the person mentioned in a written communication given to the Minister by the applicant in accordance with Division 2.3.

scholarship means a scholarship that:

- (a) is awarded to a student by his or her education provider or proposed education provider; and
- (b) is awarded on the basis of merit and an open selection process; and
- (c) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (d) is awarded to the greater of:
 - (i) not more than 10% of overseas students in a course intake; and
 - (ii) not more than 3 overseas students in a course intake.

travel costs, for an applicant, means the sum of costs for each of the applicant and any family applicant:

- (a) if the applicant or family applicant is not in Australia when the application is made — of travelling to Australia; and
- (b) of returning to the applicant's home country at the end of his or her stay.

580.112 In subclause 580.226 (3):

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;

- (c) a loan from the government of the home country of the applicant or of the nominating student;
- (d) a scholarship awarded to the nominating student by his or her education provider or proposed education provider;
- (e) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) unless the nominating student holds a Subclass 570 (Independent ELICOS Sector) visa — a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the nominating student in a role in relation to which the nominating student's principal course is directly relevant; or
 - (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation.

580.113 In subclause 580.226 (4):

funds from an acceptable source means one or more of the following:

- (a) a money deposit that the applicant or an individual who is providing support to the applicant has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or of an individual who is providing support to the applicant;
- (c) a loan from the government of the home country of the applicant or of the nominating student;

- (d) a scholarship awarded to the nominating student by his or her education provider or proposed education provider;
- (e) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the nominating student in a role in relation to which the nominating student's principal course is directly relevant; or
 - (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation.

580.114 In subclause 580.226 (5):

funds from an acceptable source does not include the value of an item of property.

Note *Assessment level, AusAID Minister, AusAID recipient, AusAID student, Australian permanent resident, custody, Defence Minister, education provider, eligible New Zealand citizen, home country* and *relative* are defined in regulation 1.03. *Member of the family unit* is defined in regulation 1.12.

580.2 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.

580.21 Criteria to be satisfied at time of application

580.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2) or (3).

- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.

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- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a Subclass 580 (Student Guardian) visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.

580.22 Criteria to be satisfied at time of decision

- 580.222 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirements of this subclause if:
- (a) the nominating student has not turned 18; and
 - (b) the applicant is able to:
 - (i) provide appropriate accommodation and support for the nominating student; and

- (ii) provide for the general welfare of the nominating student; and
 - (c) the applicant is either:
 - (i) a parent of the nominating student or a person who has custody of the nominating student; or
 - (ii) a person who:
 - (A) is a relative of the nominating student; and
 - (B) has turned 21; and
 - (d) if subparagraph (c) (ii) applies — the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or
 - (ii) a person who has custody of the nominating student.
- (3) The applicant meets the requirements of this subclause if:
- (a) the nominating student has turned 18; and
 - (b) the Minister is satisfied that there are exceptional reasons why the nominating student needs the applicant to reside with the nominating student in Australia; and
 - (c) the applicant is able to:
 - (i) provide appropriate accommodation and support for the nominating student; and
 - (ii) provide for the general welfare of the nominating student; and
 - (d) the applicant is a person who:
 - (i) is a relative of the nominating student; and
 - (ii) has turned 21.
- (4) An applicant meets the requirements of this subclause if:
- (a) the Minister is satisfied that the grant of the visa to the applicant will significantly benefit the relationship between the government of Australia and the government of a foreign country; and
 - (b) the applicant has turned 21; and
 - (c) if the nominating student has not turned 18 — the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or

(ii) a person who has custody of the nominating student.

- 580.223 (1) The applicant meets the requirements of subclauses (2), (3) and (4).
- (2) The applicant meets the requirements of this subclause if:
- (a) the Minister is satisfied that the applicant has a genuine intention to reside in Australia with the nominating student; and
- (b) the Minister is satisfied that the nominating student has a genuine intention to reside in Australia with the applicant; and
- (c) the Minister is satisfied that, unless the applicant meets the requirements of subclause 580.222 (4), the nominating student does not intend to reside in Australia with:
- (i) a holder of a Subclass 580 visa other than the applicant; or
- (ii) a parent of the nominating student, or a person who has custody of the nominating student, other than the applicant; and

Note If the applicant meets the requirements of subclause 580.222 (4), the nominating student may intend to reside with 1 or more holders of a Subclass 580 visa in addition to the applicant.

- (d) unless:
- (i) the applicant satisfies subclause 580.222 (4); or
- (ii) the Minister has, under subclause (2A), waived the requirement in this paragraph;
- each member of the family unit of the applicant has turned 6; and
- (e) the Minister is satisfied that the applicant has made appropriate arrangements, for the period of the applicant's proposed stay in Australia, for the accommodation, support and general welfare of each member of the applicant's family unit:
- (i) who has not turned 18; and
- (ii) who does not hold a student visa.

(2A) The Minister may waive the requirement under paragraph (2) (d) if:

- (a) either:
 - (i) the applicant is a person designated under regulation 2.07AO; or
 - (ii) each child under 6 would be subject to assessment level 1 or 2 if the child were an applicant for a Subclass 571 (Schools Sector) visa; and
 - (b) the Minister is satisfied that there are compelling and compassionate reasons to do so.
- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant seeks to reside in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the application was made outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (4) The applicant meets the requirements of this subclause if the applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

580.224 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

580.225 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

580.226 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian because the applicant meets the requirements of subclause (1A) or (1B).

(1A) An applicant meets the requirements of this subclause if:

- (a) the applicant is not a person designated under regulation 2.07AO; and
- (b) the applicant gives to the Minister evidence relating to the applicant's financial capacity in accordance with subclause (2), (3), (4) or (5); and
- (c) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter; and
- (d) the Minister is satisfied that, while the applicant holds the visa, the applicant will have access to the funds demonstrated or declared in accordance with subclause (2), (3), (4) or (5).

(1B) An applicant meets the requirements of this subclause if:

- (a) the applicant is a person designated under regulation 2.07AO; and
- (b) the Minister is satisfied that the applicant has access to sufficient funds to meet:
 - (i) the costs and expenses required to support the applicant during the proposed stay in Australia; and
 - (ii) the costs and expenses required to support each family applicant; and
- (c) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter.

- (2) If the nominating student was, at the time his or her visa was granted, subject to assessment level 5, the evidence for paragraph (1A) (b) is evidence that:
- (a) the applicant has funds that are sufficient to meet living costs for the full period; and
 - (b) the applicant has funds that are sufficient to meet travel costs; and
 - (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application; and
 - (d) the applicant's regular income before the date of the application was sufficient to accumulate the funds.
- (3) If the nominating student was, at the time his or her visa was granted, subject to assessment level 4, the evidence for paragraph (1A) (b) is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period.
- (4) If the nominating student was, at the time his or her visa was granted, subject to assessment level 3, the evidence for paragraph (1A) (b) is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 24 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and

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- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period.
- (5) If the nominating student was, at the time his or her visa was granted, subject to assessment level 1 or 2:
- (a) the evidence for paragraph (1A) (b) is:
 - (i) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 12 months; and
 - (ii) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (iii) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period; and
 - (b) the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

580.227 If:

- (a) the application was made in Australia; and
- (b) the student who nominated the applicant is subject to assessment level 2, 3, 4 or 5 in respect of the student visa held by that student; and
- (c) at the time of application, the applicant met the requirements of clause 580.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);

- (C) Cultural/Social (Temporary) (Class TE);
- (D) Educational (Temporary) (Class TH);
- (E) Electronic Travel Authority (Class UD);
- (F) Expatriate (Temporary) (Class TJ);
- (G) Family Relationship (Temporary) (Class TL);
- (H) Interdependency (Temporary) (Class TM);
- (I) Long Stay (Visitor) (Class TN);
- (IA) Maritime Crew (Temporary) (Class ZM);
- (J) Medical Practitioner (Temporary) (Class UE);
- (K) Retirement (Temporary) (Class TQ);
- (L) Short Stay (Visitor) (Class TR);
- (LA) Superyacht Crew (Temporary) (Class UW);
- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 497 (Graduate Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 580 visa.

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- 580.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.

- 580.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant remaining in Australia as a student guardian.

- 580.230 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.

580.3 Secondary criteria

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

580.31 Criteria to be satisfied at time of application

- 580.310 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 580 visa; or
 - (b) a person who satisfies the primary criteria in Subdivision 580.21.
- 580.311 (1) If the application is made in Australia, 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) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a

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- dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
- (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 is a member of the family unit of a person who meets the requirements of subclause 580.211 (2).
- (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 is a member of the family unit of a person who meets the requirements of subclause 580.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's last substantive visa ceased to be in effect.

580.32 Criteria to be satisfied at time of decision

- 580.321 The applicant meets the requirements of clauses 580.322, 580.323, 580.324, 580.325, 580.326 and 580.327.
- 580.322 The applicant has not turned 6.
- 580.323 The applicant is a member of the family unit of a person:
- (a) in relation to whom the Minister has, under subclause 580.223 (2A), waived the requirement in paragraph 580.223 (2) (d); and
 - (b) who has otherwise satisfied the primary criteria in Subdivision 580.22.
- 580.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4017 and 4018.

580.325 If the application is in respect of a proposed stay in Australia of more than 12 months, the applicant also satisfies public interest criterion 4010.

580.326 If:

- (a) the application is made outside Australia; and
- (b) the applicant has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

580.327 The applicant produces to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

580.328 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.

580.4 Circumstances applicable to grant

580.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

580.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

580.5 When visa is in effect

580.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

580.6 Conditions

580.611 (1) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (2) or (3) — conditions 8101, 8201, 8501, 8516, 8534, 8537 and 8538.

(2) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (4) — conditions 8106, 8201, 8501, 8516, 8534, 8537 and 8538.

580.612 In the case of a visa granted to an applicant who meets the requirements of clause 580.321 — conditions 8101, 8501, 8502 and 8516.

580.7 Way of giving evidence

580.711 No evidence need be given.

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

Subclass 651 eVisitor

651.1 Interpretation

Note eVisitor eligible passport is defined in regulation 1.11C. There are no interpretation provisions specific to this Part.

651.2 Primary Criteria

Note All applicants must satisfy the primary criteria.

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

651.22 Criteria to be satisfied at time of decision

651.221 The applicant holds an eVisitor eligible passport.

651.222 The applicant satisfies the Minister that the applicant has a genuine intention to visit Australia temporarily:

- (a) as a tourist; or
- (b) for business purposes.

651.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

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

651.3 Secondary Criteria: Nil.

Note All applicants must satisfy the primary criteria.

651.4 Circumstances applicable to grant

651.411 The applicant must be outside Australia at the time of the grant.

651.5 When visa is in effect

651.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia on multiple occasions within 12 months from the date of the grant of the visa; and
- (b) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

651.6 Conditions

651.611 Conditions 8201, 8527 and 8528 must be imposed.

651.612 If the applicant intends to visit Australia temporarily as a tourist, condition 8101 must be imposed.

651.613 If the applicant intends to visit Australia temporarily for business purposes, condition 8112 must be imposed.

651.7 Way of giving evidence

651.711 No evidence need be given.

Subclass 675 Medical Treatment (Short Stay)

675.1 Interpretation

Note No interpretation provisions specific to this Part.

675.2 Primary criteria

Note All applicants must satisfy the primary criteria.

675.21 Criteria to be satisfied at time of application

675.211 The applicant seeks to visit Australia, or remain in Australia as a visitor, for the purposes of medical treatment or for related purposes.

675.212 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

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

- (a) seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia; and
- (b) satisfies the Minister that arrangements have been concluded to carry out the treatment; and
- (e) satisfies the Minister that, if the treatment is an organ transplant, the donor of the relevant organ is accompanying the applicant to Australia or that all requisite arrangements to effect the donation of the organ have been concluded in Australia.

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

- (a) seeks to donate an organ for transplant in Australia; and
- (b) satisfies the Minister that, if the donee is an applicant referred to in subclause (2), the donee meets the requirements of that subclause.

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

- (a) seeks to give emotional and other support to an applicant described in subclause (2) or (3); and
- (b) satisfies the Minister that the person to whom the applicant is to provide support meets the requirements of subclause (2) or (3), as the case requires.

(5) The applicant meets the requirements of this subclause if the applicant is a citizen of Papua New Guinea who:

- (a) resides in the Western Province of Papua New Guinea; and

- (b) is approved by the Queensland Department of Health for medical evacuation to a hospital in Queensland.
- 675.213 The Minister is satisfied that no Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.
- 675.214 The applicant has adequate funds for personal support during the period of the visit.
- 675.215 If the application is made outside Australia, the period of stay in Australia proposed in the application does not exceed 3 months.
- 675.216 If the application is made in Australia:
- (a) the applicant:
 - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) does not hold a substantive visa and:
 - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
 - (c) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa; and
 - (d) the grant of the visa would not result in the applicant being authorised to remain in Australia for more than 3 consecutive months as the holder of 1 or more visitor visas.

675.22 Criteria to be satisfied at time of decision

- 675.221 (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 applicant continues to satisfy the criteria in clauses 675.211 to 675.214; and
 - (b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 675.215; and
 - (c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and
 - (d) the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4012, 4013 and 4014; and
 - (e) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and
 - (f) if the applicant is a person described in subclause 675.212 (2):
 - (i) the applicant satisfies the Minister that the applicant is free from 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;
 - (ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 675.212 (2) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
 - (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
 - (g) if the applicant is a person described in subclause 675.212 (3), the applicant satisfies the Minister that:
 - (i) the applicant is free from tuberculosis; and

- (ii) the applicant is free from 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; and
- (iii) the applicant is not a person who has a disease or condition (other than a disease or condition normally related to the organ transplant for which the applicant proposes coming to Australia) that, during the applicant's proposed period of stay in Australia, would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care or community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services; and
- (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 675.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
- (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (h) if the applicant is a person described in subclause 675.212 (4), the applicant:
 - (i) satisfies public interest criterion 4005; and
 - (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
 - (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those

costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and

- (j) if the application is made in Australia:
 - (i) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (3) An applicant meets the requirements of this subclause if the applicant is in Australia and:
 - (a) satisfies the criteria in paragraph (2) (c) and subparagraph (2) (j) (ii); and
 - (b) has compelling personal reasons for the grant of the visa; and
 - (c) satisfies public interest criteria 4005 (except paragraph (c) of that criterion) and 4012.
- (4) An applicant meets the requirements of this subclause if:
 - (a) he or she is in Australia; and
 - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
 - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and
 - (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
 - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (f) he or she satisfies public interest criteria 4005 and 4012; and
 - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and

- (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 675.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 675.223 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 675.224 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.

675.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

675.4 Circumstances applicable to grant

- 675.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.
- 675.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

675.5 When visa is in effect

675.511 If the visa is granted outside Australia — temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
 - (i) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or
 - (ii) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.

675.512 (1) In this clause:

date of latest entry, in relation to the holder of a visa, is the date on which he or she last entered Australia before the grant of the visa.

(2) If the visa is granted in Australia — temporary visa permitting the holder:

- (a) to remain in Australia:
 - (i) for a period (not longer than 3 months after the date of latest entry) specified by the Minister for the purpose; or
 - (ii) until a date (not longer than 3 months after the date of latest entry) specified by the Minister for the purpose; and
- (b) if the holder leaves Australia:
 - (i) to travel to and enter Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia:
 - (A) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or

- (B) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.

675.6 Conditions

- 675.611 In the case of a visa granted to an applicant who meets the requirements of subclause 675.221 (4), condition 8201.
- 675.611A In any other case, conditions 8101 and 8201.
- 675.612 Condition 8503 may be imposed.

675.7 Way of giving evidence

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

Subclass 676 Tourist

676.1 Interpretation

Note oral application is defined in regulation 1.03. There are no interpretation provisions specific to this Part.

676.2 Primary criteria

Note All applicants must satisfy the primary criteria.

676.21 Criteria to be satisfied at time of application

- 676.211 The applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine.
- 676.212 The applicant seeks to visit Australia, or remain in Australia as a visitor:
- (a) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or

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- (b) for a purpose other than a purpose related to business or medical treatment.
- 676.213 The applicant:
- (a) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
 - (b) meets the requirements of paragraph 676.221 (3) (f).
- 676.214 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
- (a) the applicant is a resident of an area in PRC specified in an instrument in writing for this paragraph; and
 - (b) the travel agent organising the applicant's tour to Australia is specified in an instrument in writing for subparagraph 1218 (1) (b) (iii); and
 - (c) the applicant provides a written statement of the details of the tour arrangements with his or her application.
- 676.215 If the applicant is in Australia:
- (a) the applicant:
 - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) does not hold a substantive visa, and:
 - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
 - (b) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 676.22 Criteria to be satisfied at time of decision**
- 676.221 (1) The applicant meets the requirements of subclause (2) or (3).

- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (b) the applicant continues to satisfy the criteria in clauses 676.212 and 676.213; and
 - (c) either:
 - (i) if the applicant has not turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013, 4014, 4017 and 4018 are satisfied in relation to the applicant; or
 - (ii) if the applicant has turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014 are satisfied in relation to the applicant; and
 - (d) if the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
 - (i) the criteria in clause 676.214 continue to be satisfied; and
 - (ii) the Minister has approved the details of the tour arrangements that were provided with the application; and
 - (e) if the applicant is in Australia:
 - (i) the applicant continues to satisfy the criteria in paragraph 676.215 (b); and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (iii) if the applicant is the holder of a student visa, or has been the holder of a student visa since last entering Australia — the Minister is satisfied that:
 - (A) the period of the applicant's stay in Australia is not sought for the purpose of commencing a registered course; and
 - (B) the period of the applicant's stay in Australia is not sought for the purpose of continuing or completing a registered course in which the applicant is enrolled.

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- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is in Australia; and
 - (b) the application was not an oral application; and
 - (c) the application was not made on form 601E; and
 - (d) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (e) the applicant continues to satisfy the criteria in clause 676.212; and
 - (f) either:
 - (i) the applicant has compelling personal reasons for the grant of the visa; or
 - (ii) each of the following applies:
 - (A) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;
 - (B) the applicant, or a member of the applicant's immediate family, is likely to become a charge on public funds in Australia;
 - (C) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia;
 - (D) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (g) the applicant satisfies public interest criterion 4005; and
 - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 676.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or

- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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

676.224 If the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas or a Subclass 417 (Working Holiday) visa, the Minister is satisfied that exceptional circumstances exist for the grant of the visa.

676.225 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.

676.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

676.4 Circumstances applicable to grant

676.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

676.412 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, the applicant must be in PRC at the time of grant.

676.413 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

676.5 When visa is in effect

676.511 If the visa was granted to an applicant outside Australia — temporary visa permitting the holder:

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- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.
- 676.512 If the visa was granted to an applicant in Australia (not being on the basis of an oral application) — temporary visa permitting the holder:
- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
- (b) if the holder leaves Australia during the visa period:
- (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.
- 676.513 If the visa was granted to an applicant in Australia on the basis of an oral application — temporary visa permitting the holder:
- (a) to remain in Australia until the date (the *last stay date*) that is the earlier of:
- (i) the date 6 months after the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to remain in Australia; and
- (ii) the date 12 months from the date on which the holder last entered Australia; and
- (b) if the holder leaves Australia during the visa period:
- (i) to travel to, and enter, Australia on 1 or more occasions until the later of:
- (A) the last stay date; and
- (B) the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to enter Australia; and

- (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.6 Conditions

- 676.611 In the case of a visa granted to an applicant who meets the requirements of sub-subparagraph 676.221 (3) (f) (ii) (D), that the applicant has compelling personal reasons to work in Australia:
- (a) condition 8201 must be imposed; and
 - (b) condition 8503 may be imposed.
- 676.612 In the case of a visa granted to an applicant who is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, conditions 8101, 8207, 8503 and 8530 must be imposed.
- 676.613 In any other case:
- (a) conditions 8101 and 8201 must be imposed; and
 - (b) condition 8503 may be imposed.

676.7 Way of giving evidence

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

Subclass 679 Sponsored Family Visitor

679.1 Interpretation

Note *AusAID Minister, AusAID recipient, AusAID student, Australian permanent resident, relative* and *settled* are defined in regulation 1.03, *member of the family unit* is defined in regulation 1.12, and *sponsor* is defined in regulation 1.20. There are no interpretation provisions specific to this Part.

679.2 Primary criteria

Note All applicants must satisfy the primary criteria.

679.21 Criteria to be satisfied at time of application

- 679.211 The applicant seeks to visit Australia:
- (a) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
 - (b) for a purpose other than a purpose related to business or medical treatment.
- 679.212 The applicant has adequate funds, or access to adequate funds, for personal support during the period of the proposed visit to Australia.
- 679.213 The period of stay in Australia proposed in the application does not exceed 12 months.
- 679.214 The applicant is sponsored by:
- (a) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is:
 - (A) a relative of the applicant; or
 - (B) a relative of a person who:
 - (I) is a member of the family unit of the applicant; and
 - (II) is also an applicant for a Subclass 679 visa; and
 - (ii) has turned 18; or
 - (b) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is a member of the Commonwealth Parliament or a State Parliament; or
 - (ii) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (iii) holds the office of mayor; or
 - (c) a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality.

679.22 Criteria to be satisfied at time of decision

- 679.221 The applicant continues to satisfy the criteria in clauses 679.211 to 679.214.
- 679.222 The sponsorship referred to in clause 679.214 has been approved by the Minister and is still in force.
- 679.223 If:
- (a) the applicant's sponsor is a settled Australian citizen or a settled Australian permanent resident; and
 - (b) the applicant is not a relative of the sponsor, but is included in the sponsorship on the basis that the applicant is a member of the family unit of a person who:
 - (i) is an applicant for a Subclass 679 visa; and
 - (ii) is sponsored by the sponsor; and
 - (iii) is a relative of the sponsor —the person has been granted a Subclass 679 visa.
- 679.224 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 679.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 679.226 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 679.227 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).

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- 679.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013 and 4014.
- 679.229 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 679.230 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 679.231 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.

679.3 Secondary criteria: Nil

Note All applicants must satisfy the primary criteria.

679.4 Circumstances applicable to grant

- 679.411 The applicant must be outside Australia at the time of grant.

679.5 When visa is in effect

- 679.511 Temporary visa permitting the holder:
- (a) to travel to and enter Australia on 1 occasion until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period (not longer than 12 months after the date of entry) specified by the Minister for the purpose.

679.6 Conditions

- 679.611 Conditions 8101, 8201, 8503 and 8531.

679.7 Way of giving evidence

679.711 No evidence need be given.

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

Subclass 685 Medical Treatment (Long Stay)

685.1 Interpretation

Note No interpretation provisions specific to this Part.

685.2 Primary criteria

Note All applicants must satisfy the primary criteria.

685.21 Criteria to be satisfied at time of application

685.211 The applicant seeks to visit Australia, or remain in Australia as a visitor, for the purposes of medical treatment or for related purposes.

685.212 (1) The applicant meets the requirements of subclause (2), (3), (4), (5), (6) or (7).

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

- (a) seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia; and
- (b) satisfies the Minister that arrangements have been concluded to carry out the treatment; and
- (e) satisfies the Minister that, if the treatment is an organ transplant, the donor of the relevant organ is accompanying the applicant to Australia or that all requisite arrangements to effect the donation of the organ have been concluded in Australia.

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

- (a) seeks to donate an organ for transplant in Australia; and

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- (b) satisfies the Minister that, if the donee is an applicant referred to in subclause (2), the donee meets the requirements of that subclause.
- (4) An applicant meets the requirements of this subclause if the applicant:
- (a) seeks to give emotional and other support to an applicant described in subclause (2) or (3); and
 - (b) satisfies the Minister that the person to whom the applicant is to provide support meets the requirements of subclause (2) or (3), as the case requires.
- (5) An applicant meets the requirements of this subclause if the applicant is a citizen of Papua New Guinea who:
- (a) resides in the Western Province of Papua New Guinea; and
 - (b) is approved by the Queensland Department of Health for medical evacuation to a hospital in Queensland.
- (6) An applicant meets the requirements of this subclause if he or she:
- (a) is in Australia; and
 - (b) has turned 50; and
 - (c) while in Australia, applied:
 - (i) for a permanent entry permit before 1 September 1994; or
 - (ia) for a section 47 temporary entry permit (within the meaning of the Migration (1993) Regulations); or
 - (ib) for an extended eligibility entry permit (within the meaning of the Migration (1989) Regulations); or
 - (ii) for a permanent visa on or after 1 September 1994; and
 - (d) has met all the criteria for the grant of that visa or entry permit other than public interest criteria related to health; and
 - (e) has been refused the visa or entry permit.
- (7) An applicant meets the requirements of this subclause if he or she is a member of the family unit of a person who meets the requirements of subclause (6).

- 685.213 Except in the case of an applicant referred to in subclause 685.212 (6) or (7), the Minister is satisfied that no Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.
- 685.214 Except in the case of an applicant referred to in subclause 685.212 (6) or (7), the applicant has adequate funds for personal support during the period of the visit.
- 685.215 If the application is made outside Australia, the period of stay in Australia proposed in the application exceeds 3 months.
- 685.216 (1) Subject to subclause (2), if the application is made in Australia:
- (a) the applicant is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (b) the applicant does not hold a substantive visa and:
 - (i) immediately before ceasing to hold a substantive visa was the holder of a temporary visa other than a visa of Subclass 426; and
 - (ii) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
 - (c) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- (2) Subclause (1) does not apply to an applicant referred to in subclause 685.212 (6) or (7).

685.22 Criteria to be satisfied at time of decision

- 685.221 (1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant continues to satisfy the criteria in clauses 685.211 to 685.214; and

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- (b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 685.215; and
 - (c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and
 - (d) the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4012, 4013 and 4014; and
 - (e) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and
 - (f) if the applicant is a person described in subclause 685.212 (2):
 - (i) the applicant satisfies the Minister that the applicant is free from 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;
 - (ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 685.212 (2) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
 - (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
 - (g) if the applicant is a person described in subclause 685.212 (3) the applicant satisfies the Minister that:
 - (i) the applicant is free from tuberculosis; and
 - (ii) the applicant is free from 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; and

- (iii) the applicant is not a person who has a disease or condition (other than a disease or condition normally related to the organ transplant for which the applicant proposes coming to Australia) that, during the applicant's proposed period of stay in Australia, would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care or community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services; and
- (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 685.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
- (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (h) if the applicant is a person described in subclause 685.212 (4), the applicant:
 - (i) satisfies public interest criterion 4005; and
 - (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
 - (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and

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- (j) if the application is made in Australia:
- (i) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (iii) if the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas, the applicant must satisfy the Minister that compelling personal reasons or exceptional circumstances exist for the grant of the visa.
- (3) An applicant meets the requirements of this subclause if the applicant:
- (a) is in Australia and:
 - (b) satisfies the criteria in paragraph (2) (c) and subparagraph (2) (j) (ii); and
 - (c) has compelling personal reasons for the grant of the visa; and
 - (d) satisfies public interest criteria 4005 (except paragraph (c) of that criterion) and 4012.
- (4) An applicant meets the requirements of this subclause if he or she:
- (a) satisfies the criterion in subclause 685.212 (6); and
 - (b) is medically unfit to depart Australia, as evidenced by a written statement to that effect from the Commonwealth Medical Officer.
- (5) An applicant meets the requirements of this subclause if he or she:
- (a) is a member of the family unit of a person who satisfies the criterion in subclause 685.212 (6); and
 - (b) that person is unfit to depart Australia, as evidenced by a statement from the Commonwealth Medical Officer.

- (6) An applicant meets the requirements of this subclause if:
 - (a) he or she is in Australia; and
 - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
 - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and
 - (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
 - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (f) he or she satisfies public interest criteria 4005 and 4012; and
 - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and
 - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 685.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
 - (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
 - (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 685.223 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 685.224 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.

685.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

685.4 Circumstances applicable to grant

- 685.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.
- 685.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

685.5 When visa is in effect

- 685.511 (1) If the visa is granted outside Australia — temporary visa permitting the holder:
- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia:
 - (i) for a period specified by the Minister for the purpose; or
 - (ii) until a date specified by the Minister for the purpose.
- (2) If the visa is granted in Australia — temporary visa permitting the holder:
- (a) to remain in Australia:
 - (i) for a period specified by the Minister for the purpose; or
 - (ii) until a date specified by the Minister for the purpose; and

- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia:
 - (A) for a period specified by the Minister for the purpose; or
 - (B) until a date specified by the Minister for the purpose.

685.6 Conditions

- 685.611 In the case of a visa granted to an applicant who meets the requirements of subclause 685.221 (6), condition 8201.
- 685.611A In any other case, conditions 8101 and 8201.
- 685.612 Condition 8503 may be imposed.

685.7 Way of giving evidence

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

Subclass 771 Transit

771.1 Interpretation

Note non-military ship and member of the crew are defined in regulation 1.03. No interpretation provisions specific to this Part.

771.2 Primary criteria

Note All applicants must satisfy the primary criteria.

771.21 Criteria to be satisfied at time of application

- 771.211 The applicant intends to remain in Australia no longer than 72 hours.

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- 771.212 The applicant establishes that the applicant's principal purpose in entering Australia is:
- (a) to pass through Australia in transit to another country; or
 - (b) to pass through Australia for the purpose of signing on to a non-military ship (other than a ship that is being imported into Australia) as a member of the crew.
- 771.213 The applicant produces tickets or documentation, or both, establishing that the applicant has concluded arrangements for travel to a destination outside Australia.

771.22 Criteria to be satisfied at time of decision

- 771.221 The applicant continues to satisfy the criteria in clauses 771.211 to 771.213.
- 771.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.
- 771.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 771.224 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.

771.3 Secondary criteria: Nil.

Note All applicants must meet the primary criteria.

771.4 Circumstances applicable to grant

- 771.411 The applicant must be outside Australia when the visa is granted.

771.5 When visa is in effect

771.511 Temporary visa permitting the holder to travel to and enter Australia on 1 or more occasions and to remain in Australia no longer than 72 hours on each occasion.

771.6 Conditions

771.611 The holder must enter on or before the date specified by the Minister for the purpose.

771.612 Conditions 8101 and 8201.

771.613 Any 1 or more of conditions 8501, 8514 and 8516 may be imposed.

771.7 Way of giving evidence

771.711 No evidence need be given.

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

Subclass 773 Border

773.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

773.2 Primary criteria

Note All applicants must meet the primary criteria.

773.21 Criteria to be satisfied at time of application

773.211 If the applicant has entered Australia and seeks immigration clearance, the applicant satisfies the criteria in clauses 773.212 to 773.216.

773.212 The applicant does not seek to remain in Australia as a refugee or on humanitarian grounds.

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- 773.213 (1) The applicant is:
- (a) the spouse or de facto partner of an Australian citizen, Australian permanent resident or an eligible New Zealand citizen; or
 - (b) a person who is apparently eligible for a Return (Residence) visa or Resident Return (Temporary) visa; or
 - (c) a person who has entered Australia with a visa that has been cancelled on presentation in immigration clearance because the person has breached a condition that the person is not to arrive in Australia before the arrival of another person specified in the visa; or
 - (d) a person who:
 - (i) is a dependent child of:
 - (A) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (B) the holder of a visa of a class set out in subclause (2); or
 - (C) the holder of a visa of a class specified in subclause (3); or
 - (D) the holder of a visa of a subclass specified in subclause (4); and
 - (ii) arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa; or
 - (e) a person who:
 - (i) immediately before last departing Australia, held a visa of:
 - (A) a class specified in subclause (3); or
 - (B) a subclass specified in subclause (4); and
 - (ii) departed in circumstances in which it was not reasonably practicable to obtain a visa before departing; and
 - (iii) would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia; or

- (f) a person who:
 - (i) immediately before last departing Australia, held a Student (Temporary) visa; and
 - (ii) departed in circumstances in which it was not reasonably practicable for the person to obtain a visa before departing; or
 - (g) a person who:
 - (i) has entered Australia without a visa that is in effect; and
 - (ii) seeks to remain in Australia on a temporary basis; and
 - (iii) appears to the Minister, from information in the application, to be a person:
 - (A) who is eligible for the grant of a Tourist (Class TR) visa; or
 - (B) who is eligible for the grant of a Visitor (Class TV) visa; or
 - (C) who is, apart from the requirements of paragraph 1223A (3) (a) of Schedule 1 and clause 456.411 of this Schedule, eligible for the grant of a Subclass 456 (Business (Short Stay)) visa; or
 - (D) who is, apart from the requirements of subitem 1224 (3) of Schedule 1 and clause 771.411 of this Schedule, eligible for the grant of a Transit (Temporary) (Class TX) visa.
- (2) The classes of visa referred to in sub-subparagraph (1) (d) (i) (B) are the following:
- (a) Spouse (Migrant) (Class BC);
 - (ab) Partner (Migrant) (Class BC);
 - (b) Child (Migrant) (Class AH);
 - (c) Adoption (Migrant) (Class AA);
 - (d) Parent (Migrant) (Class AX);
 - (e) Preferential Relative (Migrant) (Class AY);
 - (f) Skilled — Australian Linked (Migrant) (Class AJ);
 - (g) Labour Agreement (Migrant) (Class AU);

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- (h) Employer Nomination (Migrant) (Class AN);
 - (j) Distinguished Talent (Migrant) (Class AL);
 - (k) Independent (Migrant) (Class AT);
 - (l) Business Skills (Migrant) (Class AD);
 - (la) Business Skills — Business Talent (Migrant) (Class EA);
 - (lb) Business Skills — Established Business (Residence) (Class BH);
 - (lc) Business Skills (Residence) (Class DF);
 - (n) Special Eligibility (Migrant) (Class AR);
 - (q) General (Residence) (Class AS);
 - (s) Confirmatory (Residence) (Class AK);
 - (t) Special Eligibility (Residence) (Class AO);
 - (u) Refugee and Humanitarian (Migrant) (Class BA);
 - (v) Camp Clearance (Migrant) (Class AF);
 - (w) East Timorese in Portugal (Special Assistance) (Class AM);
 - (x) Citizens of the Former Yugoslavia (Special Assistance) (Class AI);
 - (y) Minorities of Former USSR (Special Assistance) (Class AV);
 - (z) Burmese in Burma (Special Assistance) (Class AB);
 - (za) Sudanese (Special Assistance) (Class BD);
 - (zb) Burmese in Thailand (Special Assistance) (Class AC);
 - (zc) Cambodian (Special Assistance) (Class AE);
 - (zd) Return (Residence) (Class BB);
 - (ze) Norfolk Island Permanent Resident (Residence) (Class AW);
 - (zf) Protection (Class AZ);
 - (zfa) Protection (Class XA);
 - (zg) Territorial Asylum (Residence) (Class BE);
 - (zga) Designated Parent (Migrant) (Class BY);
 - (zgb) Designated Parent (Residence) (Class BZ);
 - (zh) Skilled – Independent (Migrant) (Class BN);
 - (zi) Skilled – Australian-sponsored (Migrant) (Class BQ);

- (zj) Other Family (Migrant) (Class BO);
 - (zk) Aged Parent (Residence) (Class BP);
 - (zl) Partner (Residence) (Class BS);
 - (zm) Child (Residence) (Class BT);
 - (zn) Other Family (Residence) (Class BU);
 - (zo) Skilled — New Zealand Citizen (Residence) (Class DB);
 - (zp) Skilled — Independent Overseas Student (Residence) (Class DD);
 - (zq) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE);
 - (zr) Contributory Parent (Migrant) (Class CA);
 - (zs) Contributory Aged Parent (Residence) (Class DG);
 - (zt) Skilled — Designated Area-sponsored (Residence) (Class CC);
 - (zu) Skilled (Residence) (Class VB);
 - (zv) Skilled (Migrant) (Class VE).
- (3) The classes of visa referred to in sub-subparagraphs (1) (d) (i) (C) and (1) (e) (i) (A) are the following:
- (a) Business (Temporary) (Class TB);
 - (aa) Business Skills (Provisional) (Class UR);
 - (b) Cultural/Social (Temporary) (Class TE);
 - (c) Diplomatic (Temporary) (Class TF);
 - (d) Domestic Worker (Temporary) (Class TG);
 - (e) Educational (Temporary) (Class TH);
 - (f) Expatriate (Temporary) (Class TJ);
 - (g) Family Relationship (Temporary) (Class TL);
 - (ga) Graduate — Skilled (Temporary) (Class UQ);
 - (gb) Interdependency (Provisional) (Class UG);
 - (h) Interdependency (Temporary) (Class TM);
 - (i) Medical Practitioner (Temporary) (Class UE);
 - (ia) New Zealand Citizen Family Relationship (Temporary) (Class UP);
 - (j) Retirement (Temporary) (Class TQ);

- (ja) Spouse (Provisional) (Class UF);
 - (jb) Partner (Provisional) (Class UF);
 - (k) Supported Dependant (Temporary) (Class TW);
 - (l) Working Holiday (Temporary) (Class TZ);
 - (m) Contributory Parent (Temporary) (Class UT);
 - (n) Contributory Aged Parent (Temporary) (Class UU);
 - (o) Skilled — Designated Area-sponsored (Provisional) (Class UZ);
 - (p) Skilled — Independent Regional (Provisional) (Class UX);
 - (q) Skilled (Provisional) (Class VC);
 - (r) Skilled (Provisional) (Class VF).
- (4) The subclasses of visa referred to in sub-subparagraphs (1) (d) (i) (D) and (1) (e) (i) (B) are the following:
- (a) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (b) Subclass 457 (Business (Long Stay)).

773.214 In the case of an application by an applicant other than a person referred to in paragraph 773.213 (1) (c), the Minister is satisfied that:

- (a) there are compelling reasons for granting a Subclass 773 visa to the applicant; and
- (b) the presence of the applicant in Australia would not be contrary to Australia's interests; and
- (c) the applicant has a good reason for not being the holder of a visa.

773.215 In the case of an application by an applicant referred to in paragraph 773.213 (1) (c), the Minister is satisfied, on the basis of a written statement by the applicant, that:

- (a) the applicant has reasonable grounds for having failed to comply with the condition; and
- (b) there are compelling reasons for allowing the applicant to leave the place of immigration clearance with the permission of the clearance officer; and

- (c) the specified person referred to in that paragraph will arrive in Australia within 30 days of the applicant being allowed to leave the place of immigration clearance with the permission of the clearance officer.
- 773.216 (1) Subject to subclause (2), if the applicant is an applicant referred to in paragraph 773.213 (1) (e), (f) or (g), the application is not made within 5 years of the grant of a previous Subclass 773 visa that was granted to the applicant on the basis of the applicant being a person of that kind.
- (2) Subclause (1) does not apply to an applicant:
- (a) if the applicant is a passenger on a vessel that has entered Australia because of matters beyond the control of the person in charge of the vessel; or
- (b) if:
- (i) there are compelling reasons for the grant of the visa to the applicant; and
- (ii) the presence of the applicant in Australia would not be contrary to the interests of Australia; and
- (iii) the applicant has a good reason for not being the holder of a visa.
- 773.217 If the application is made in Australia after immigration clearance, the applicant is the holder of a Subclass 773 visa that was granted to the holder as a person referred to in paragraph 773.213 (1) (d).
- 773.22 Criteria to be satisfied at time of decision**
- 773.221 If the application is made in Australia and the applicant seeks immigration clearance, the applicant continues to satisfy the criteria in clauses 773.212 to 773.216.
- 773.222 The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4005 and 4012; and
- (b) if the applicant is not a person described in sub-subparagraph 773.213 (1) (d) (i) (A) or (B) — public interest criteria 4013 and 4014.

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- 773.223 If the application is made in Australia and the applicant seeks immigration clearance, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 773.224 If the application is made in Australia after immigration clearance:
- (a) the Subclass 773 visa held by the applicant was granted subject to the satisfaction of a requirement or condition before the expiry of a period specified in the visa and that requirement has not been satisfied; and
 - (b) the applicant establishes that it was not possible to satisfy the requirement or condition before expiry of the period; and
 - (c) the Minister is satisfied that it would be unreasonable to require the person to leave Australia.
- 773.225 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 773.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

773.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

773.4 Circumstances applicable to grant

- 773.411 When visa is granted, the applicant must be:
- (a) in Australia and in immigration clearance; or
 - (b) in Australia after immigration clearance.

773.5 When visa is in effect

773.511 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;
this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder to remain in Australia for a period specified by the Minister, not exceeding 30 days from the date of grant.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the other substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

773.512 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.

773.6 Conditions

773.611 Conditions applicable to the visa for which the applicant is apparently eligible.

773.7 Way of giving evidence

773.711 No evidence need be given.

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

- (b) is a person:
- (i) who is confirmed by a Commonwealth Medical Officer 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.

786.224 The applicant satisfies public interest criterion 4001 or, if the applicant is unable to satisfy that criterion because the appropriate inquiries have not been completed, the applicant declares in writing, to the satisfaction of the Minister, that the applicant:

- (a) does not have a criminal record; and
- (b) is not a terrorist; and
- (c) has not engaged in crimes against humanity or war crimes; and
- (d) will assist Immigration by attempting to obtain any relevant records relating to the applicant.

786.225 The applicant satisfies public interest criteria 4002 and 4003A.

786.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

786.4 Circumstances applicable to grant

786.411 The applicant must be in Australia.

786.5 When visa is in effect

- 786.511 Temporary visa permitting the holder to remain in, but not re-enter, Australia until the earlier of:
- (a) the end of 36 months from the date of grant of the visa; and
 - (b) the end of any shorter period determined in writing by the Minister from the date of grant of the visa.

786.6 Conditions

- 786.611 The holder must notify Immigration of any change in the holder's address at least 2 working days before the change.
- 786.612 The holder must not become involved in any disruptive activity, or violence, that may be a threat to the welfare of the Australian community or a group in the Australian community.

786.7 Way of giving evidence

- 786.711 No evidence need be given.
- 786.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 800 Territorial Asylum

800.1 Interpretation

Note No interpretation provisions specific to this Part.

800.2 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.

800.21 Criteria to be satisfied at time of application

- 800.211 The applicant has been granted territorial asylum in Australia by instrument of a Minister.

800.22 Criteria to be satisfied at time of decision

800.221 The applicant continues to satisfy the criterion in clause 800.211.

800.221A The applicant:

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

800.222 (1) Each person who is a member of the family unit of the applicant and who is also an applicant for a Subclass 800 visa:

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

(2) Each person who is a member of the family unit of the applicant and is not an applicant for a Subclass 800 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.

800.223 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.

800.3 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.

800.31 Criteria to be satisfied at time of application

800.311 The applicant is a member of the family unit of a person who satisfies or has satisfied the primary criteria in Subdivision 800.21.

800.32 Criteria to be satisfied at time of decision

800.321 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 800 visa.

800.322 The applicant:

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

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

800.4 Circumstances applicable to grant

800.411 The applicant must be in the migration zone when the visa is granted.

800.5 When visa is in effect

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

800.6 Conditions: Nil.

800.7 Way of giving evidence

800.711 No evidence need be given.

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

Subclass 801 Partner

801.1 Interpretation

801.111 In this Part:

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) an Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for the Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa as the spouse or de facto partner of the applicant; or
- (b) for a person to whom the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa — an Australian citizen, Australian permanent resident or eligible New Zealand citizen who was the spouse or de facto partner of that person at the time the visa was granted.

Note *Australian permanent resident*, *eligible New Zealand citizen* and *long-term partner relationship* are defined in regulation 1.03, *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).

801.2 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.

801.21 [No criteria to be satisfied at time of application.]

801.22 Criteria to be satisfied at time of decision

- 801.221 (1) The applicant meets the requirements of subclause (2), (2A), (3), (4), (5), (6) or (8).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 820 visa; and
 - (b) the applicant continues to be sponsored for the grant of the Subclass 820 (Partner) visa by:
 - (i) the sponsoring partner; or
 - (ii) the Australian citizen, Australian permanent resident or eligible New Zealand citizen who sponsored the applicant for that visa; and
 - (c) the applicant is the spouse or de facto partner of the sponsoring partner; and
 - (d) subject to subclauses (6A) and (7), at least 2 years have passed since the application was made.
- (2A) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
 - (b) the applicant is the spouse or de facto partner of the sponsoring partner; and
 - (c) subject to subclauses (6A) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).

(3) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221 (2).

(4) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221 (3).

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

- (a) is the holder of a Subclass 820 visa; and
- (b) would meet the requirements of subclause (2) or (2A) except that the sponsoring partner has died; and
- (c) 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
- (d) has developed close business, cultural or personal ties in Australia.

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

- (a) the applicant is the holder of a Subclass 820 visa; and
- (b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
- (c) 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

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- (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.

(6A) Paragraphs (2) (d) and (2A) (c) do not apply to an applicant who at the time of making the application was in a long-term partner relationship with the sponsoring partner.

(7) Nothing in paragraphs (2) (d) and (2A) (c) prevents the Minister, less than 2 years after the application is made:

- (a) refusing to grant a Subclass 801 visa; or
- (b) in the case of an application made before 1 November 1996, granting a Subclass 801 visa to an applicant who was granted a Subclass 820 visa on the basis that he or she satisfied the requirements of subclause 820.211 (3) or (5); or
- (c) granting a Subclass 801 visa to an applicant who was granted:
 - (i) an extended eligibility (spouse) (code number 820) entry permit under the Migration (1989) Regulations; or
 - (ii) a Class 820 (extended eligibility (spouse)) entry permit under the Migration (1993) Regulations;other than an applicant whose application was in accordance with approved form 47SP or 887; or
- (d) approving the grant of a Subclass 801 visa to an applicant who meets the requirements of subclause (5) or (6).

- (8) The applicant meets the requirements of this subclause:
 - (a) if the applicant held a Subclass 820 (Partner) visa that ceased on notification of a decision of the Minister to refuse a Subclass 801 visa; and
 - (b) if the Tribunal:
 - (i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa; or
 - (ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa.
- 801.222 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.
- 801.223 (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 who holds a Subclass 820 visa granted on the basis that the applicant satisfied the requirements of subclause 820.211 (3), (4) or (5).
- 801.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 801 visa is a person who:
 - (a) subject to subclause (3) — 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.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 801 visa is a person who:
 - (a) 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.

(3) Paragraph (1) (a) does not apply to an applicant who meets the requirements of clause 801.321 as the holder of a Subclass 820 visa granted on the basis that the applicant:

- (a) was the dependent child of a person who met the requirements of subclause 820.211 (3), (4) or (5); and
- (b) entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

801.225 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.

801.226 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.

801.3 Secondary criteria

Note A dependent child, or 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 and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant meeting the primary criteria.

801.31 Criteria to be satisfied at time of application

801.311 (1) The applicant meets the requirements of subclause (2) or (3).

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

- (a) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa ; or
- (b) a member of the family unit of a person who:
 - (i) is the holder of, or has been the holder of, a prospective marriage (temporary) visa; and
 - (ii) has applied for a Partner (Residence) (Class BS) visa;

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

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

- (a) the applicant is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
- (b) the applicant is a member of the family unit of a person who:
 - (i) is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa; and
 - (ii) has applied for a Partner (Residence) (Class BS) visa; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

801.32 Criteria to be satisfied at time of decision

801.321 An applicant meets the requirements of this clause if:

- (a) any of the following applies:
 - (i) the applicant is the holder of:
 - (A) a Subclass 445 (Dependent Child) visa; or
 - (B) a Subclass 820 (Spouse) visa; or
 - (C) a Subclass 820 (Partner) visa;
 - (ii) the applicant was the holder of:
 - (A) a Subclass 445 visa; or

-
- (B) a Subclass 820 visa;
which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child or of whose family unit the applicant is a member;
- (iii) the applicant is a person:
- (A) who holds:
- (I) a Subclass 445 (Dependent Child) visa; or
- (II) a Subclass 820 (Spouse) visa; or
- (III) a Subclass 820 (Partner) visa;
which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
- (B) who, at the time the visa mentioned in sub-subparagraph (A) was granted, was the dependent child, or a member of the family unit, as the case requires, of another person who was the holder of a Subclass 445 (Dependent Child) visa, Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa; and
- (b) that other person has been granted a Subclass 801 visa.
- 801.322 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.
- 801.323 (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 who holds a Subclass 820 visa granted on the basis that the applicant met the requirements of clause 820.311 as the dependent child of a person:

- (a) who satisfied the requirements of subclause 820.211 (3), (4) or (5); and
- (b) who entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.

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

801.325 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.

801.4 Circumstances applicable to grant

801.411 The applicant must be:

- (a) in Australia, but not in immigration clearance; or
- (b) outside Australia;

when the visa is granted.

801.5 When visa is in effect

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

801.6 Conditions: Nil.

801.7 Way of giving evidence

801.711 No evidence need be given.

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