



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 3 Additional criteria applicable to unlawful non-citizens and certain bridging visa holders

(regulation 1.03)

- 3001 (1) The application is validly made within 28 days after the relevant day (within the meaning of subclause (2)).
- (2) For the purposes of subclause (1) and of clause 3002, the relevant day, in relation to an applicant, is:
- (a) if the applicant held an entry permit that was valid up to and including 31 August 1994 but has not subsequently been the holder of a substantive visa — 1 September 1994; or
- (b) if the applicant became an illegal entrant before 1 September 1994 (whether or not clause 6002 in Schedule 6 of the Migration (1993) Regulations applied or section 195 of the Act applies) and has not, at any time on or after 1 September 1994, been the holder of a substantive visa — the day when the applicant last became an illegal entrant; or
- (c) if the applicant:
- (i) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
- (ii) entered Australia unlawfully on or after 1 September 1994;
- whichever is the later of:
- (iii) the last day when the applicant held a substantive or criminal justice visa; or
- (iv) the day when the applicant last entered Australia unlawfully; or
- (d) if the last substantive visa held by the applicant 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:

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- (i) the day when that last substantive visa ceased to be in effect; and
 - (ii) 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.
- 3002 The application is validly made within 12 months after the relevant day (within the meaning of subclause 3001 (2)).
- 3003 If:
- (a) the applicant has not, on or after 1 September 1994, been the holder of a substantive visa; and
 - (b) on 31 August 1994, the applicant was either:
 - (i) an illegal entrant; or
 - (ii) the holder of an entry permit that was not valid beyond 31 August 1994;
- the Minister is satisfied that:
- (c) the applicant last became an illegal entrant, or, in the case of a person referred to in subparagraph (b) (ii), last became a person in Australia without a substantive visa, because of factors beyond the applicant's control; and
 - (d) there are compelling reasons for granting the visa; and
 - (e) the applicant has complied substantially with the conditions that apply or applied to:
 - (i) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
 - (ii) any subsequent bridging visa; and
 - (f) the applicant would have been entitled to be granted an entry permit equivalent to a visa of the class applied for if the applicant had applied for the entry permit immediately before last becoming an illegal entrant or, in the case of a person referred to in subparagraph (b) (ii), if the applicant had applied for the entry permit on 31 August 1994; and
 - (g) the applicant intends to comply with any conditions subject to which the visa is granted; and

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- (h) the last entry permit (if any) held by the applicant was not granted subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.

3004 If the applicant:

- (a) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
- (b) entered Australia unlawfully on or after 1 September 1994 and has not subsequently been granted a substantive visa;

the Minister is satisfied that:

- (c) the applicant is not the holder of a substantive visa because of factors beyond the applicant's control; and
- (d) there are compelling reasons for granting the visa; and
- (e) the applicant has complied substantially with:
 - (i) the conditions that apply or applied to:
 - (A) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
 - (B) any subsequent bridging visa; or
 - (ii) the conditions that apply or applied to:
 - (A) the last of any substantive visas held by the applicant (other than a condition of which the applicant was in breach solely because the visa ceased to be in effect); and
 - (B) any subsequent bridging visa; and
- (f) either:
 - (i) in the case of an applicant referred to in paragraph (a) — the applicant would have been entitled to be granted a visa of the class applied for if the applicant had applied for the visa on the day when the applicant last held a substantive or criminal justice visa; or

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- (ii) in the case of an applicant referred to in paragraph (b) — the applicant would have satisfied the criteria (other than any Schedule 3 criteria) for the grant of a visa of the class applied for on the day when the applicant last entered Australia unlawfully; and
- (g) the applicant intends to comply with any conditions subject to which the visa is granted; and
- (h) if the last visa (if any) held by the applicant was a transitional (temporary) visa, that visa was not subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.
- 3005 A visa or entry permit has not previously been granted to the applicant on the basis of the satisfaction of any of the criteria set out in:
- (a) this Schedule; or
- (b) Schedule 6 of the Migration (1993) Regulations; or
- (c) regulation 35AA or subregulation 42 (1A) or (1C) of the Migration (1989) Regulations.

Note Section 10 of the Act provides that a child who was born in the migration zone and was a non-citizen when he or she was born shall be taken to have entered Australia when he or she was born.

Schedule 4 Public interest criteria and related provisions

(regulation 1.03)

Part 1 Public interest criteria

- 4001 Either:
- (a) the person satisfies the Minister that the person passes the character test; or
 - (b) the Minister is satisfied, after appropriate inquiries, that there is nothing to indicate that the person would fail to satisfy the Minister that the person passes the character test; or
 - (c) the Minister has decided not to refuse to grant a visa to the person despite reasonably suspecting that the person does not pass the character test; or
 - (d) the Minister has decided not to refuse to grant a visa to the person despite not being satisfied that the person passes the character test.
- 4002 The applicant is not assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security, within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*.
- 4003 The applicant is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia:
- (a) is, or would be, contrary to Australia's foreign policy interests; or
 - (b) may be directly or indirectly associated with the proliferation of weapons of mass destruction.
- 4003A The applicant is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction.

- 4004 The applicant does not have outstanding debts to the Commonwealth unless the Minister is satisfied that appropriate arrangements have been made for payment.
- 4005 The applicant:
- (a) is free from tuberculosis; and
 - (b) 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
 - (c) is not a person who has a disease or condition to which the following subparagraphs apply:
 - (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
 - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.

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- 4006A (1) The applicant:
- (a) is free from tuberculosis; and
 - (b) 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
 - (c) subject to subclause (2), is not a person who has a disease or condition to which the following subparagraphs apply:
 - (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
 - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.
- (2) The Minister may waive the requirements of paragraph (1)(c) if the relevant nominator has given the Minister a written undertaking that the relevant nominator will meet all costs related to the disease or condition that causes the applicant to fail to meet the requirements of that paragraph.

(3) In subclause (2), *relevant nominator* means an approved sponsor who:

- (a) has lodged a nomination in relation to a primary applicant; or
- (b) has included an applicant who is a member of the family unit of a primary applicant in a nomination for the primary applicant; or
- (c) has agreed in writing for an applicant who is a member of the family unit of a primary applicant to be a secondary sponsored person in relation to the approved sponsor.

4007

(1) The applicant:

- (a) is free from tuberculosis; and
- (b) 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
- (c) subject to subclause (2), is not a person who has a disease or condition to which the following subparagraphs apply:
 - (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and

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- (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.
- (2) The Minister may waive the requirements of paragraph (1) (c) if:
- (a) the applicant satisfies all other criteria for the grant of the visa applied for; and
- (b) the Minister is satisfied that the granting of the visa would be unlikely to result in:
- (i) undue cost to the Australian community; or
 - (ii) undue prejudice to the access to health care or community services of an Australian citizen or permanent resident.

- 4009 The applicant:
- (a) intends to live permanently in Australia; and
- (b) if the applicant seeks entry to Australia as a member of a family unit, also satisfies the Minister that the applicant could obtain support in Australia from other members of the family unit.
- 4010 If the applicant seeks to remain in Australia permanently, or temporarily for longer than 12 months, the applicant is likely to become established in Australia without undue personal difficulty and without imposing undue difficulties or costs on the Australian community.
- 4011 (1) If the applicant is affected by the risk factor specified in subclause (2), the applicant satisfies the Minister that, having regard to the applicant's circumstances in the applicant's country of usual residence, there is very little likelihood that the applicant will remain after the expiry of any period during which the applicant might be authorised to remain after entry.

(2) An applicant is affected by the risk factor referred to in subclause (1) if:

- (a) during the period of 5 years immediately preceding the application, the applicant has applied for a visa or entry permit for the purpose of permanent residence in Australia; or
- (b) the applicant has all the characteristics of a class of persons specified by the Minister by Gazette Notice for the purposes of this paragraph.

(2A) In specifying a class of persons for the purposes of paragraph (2) (b), the Minister must have regard to statistics prepared by the Secretary:

- (a) from movement records kept by Immigration about persons who have remained in Australia after expiry of the period during which each person was authorised to remain in Australia under the visa with which he or she last entered Australia; and
- (b) having regard to one or more of the characteristics mentioned in subclause (3).

(3) For the purposes of paragraph (2) (b), a characteristic is any of the following:

- (a) nationality;
- (b) marital or relationship status;
- (c) age;
- (d) sex;
- (e) occupation;
- (f) the class of visa currently applied for;
- (g) the place of lodgment or posting of the application for that visa.

4012 In the case of an applicant:

- (a) who has not turned 18; and
- (b) whose intended stay in Australia will not be in the company of either or both of his or her parents or guardians; and

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- (c) whose application expresses an intention to visit, or stay with, a person in Australia who is not a relative of the applicant; and
 - (d) who is not a member of an organised tour and for whom no adequate maintenance and support arrangements have been made for the total period of stay in Australia;
an undertaking to provide accommodation for, and to be responsible for the support and general welfare of, the applicant during the applicant's stay in Australia is given to the Minister by a person who, in the reasonable belief of the Minister, is of good character.

4012A In the case of an applicant who has not turned 18 and who is not an AusAID student or a Defence student:

- (a) the application expresses a genuine intention to reside in Australia with a person who:
 - (i) is a parent of the applicant or a person who has custody of the applicant; or
 - (ii) is:
 - (A) a relative of the applicant; and
 - (B) nominated by a parent of the applicant or a person who has custody of the applicant; and
 - (C) aged at least 21; and
 - (D) of good character; or
- (b) a signed statement is given to the Minister by the education provider for the course in which the applicant is enrolled confirming that appropriate arrangements have been made for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:
 - (i) certificate of enrolment; or
 - (ii) electronic confirmation of enrolment; or
 - (iii) Acceptance Advice of Secondary Exchange Student (AASES);plus 7 days after the end of that period.

- 4013 (1) If the applicant is affected by a risk factor mentioned in subclause (1A), (2), (2A), (3), (4), or (5):
- (a) the application is made more than 3 years after the cancellation of the visa or temporary entry permit, or the determination of the Minister, as the case may be, referred to in the subclause that relates to the applicant; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or
 - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;justify the granting of the visa within 3 years after the cancellation or determination.
- (1A) A person is affected by a risk factor if a visa previously held by the person was cancelled:
- (a) under section 109 or paragraph 116 (1) (d) of the Act; or
 - (b) under section 128 of the Act because the Minister was satisfied that the ground mentioned in paragraph 116 (1) (d) of the Act applied to the person.
- (2) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 116 or 128 of the Act:
- (a) because the person was found by Immigration to have worked without authority; or
 - (b) if the visa was of a subclass specified in Part 2 of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass; or
 - (c) if the visa was a Subclass 773 (Border) visa and, at the time of grant of the visa, the person was apparently eligible for a substantive visa of a subclass specified in Part 2 of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass of substantive visa; or

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- (ca) because the person held a student visa and the Minister was satisfied that a ground mentioned in paragraph 116 (1) (fa) of the Act applied to the person; or
 - (d) because the Minister was satisfied that a ground prescribed by paragraph 2.43 (1) (i), (j), (k), (ka), (m) or (o) applied to the person.

(2A) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 137J of the Act.

(3) A person is affected by a risk factor if a temporary entry permit previously held by the person was cancelled under section 35 of the Act as in force before 1 September 1994 because the person was found by Immigration to have worked without authority.

(4) A person is affected by a risk factor if a temporary entry permit previously held by the person ceased to be in force as a result of a determination made by the Minister before 1 September 1994 that the person had failed to comply with a terminating condition to which the entry permit was subject.

(5) A person is affected by a risk factor if, before 1 September 1994, the person left Australia because the Minister made a determination under regulation 2.38 of the Migration (1993) Regulations that the person contravened a condition of an entry permit held by the person, whether or not the period of effect of that entry permit had expired at the time of the determination.

- 4014
- (1) If the applicant is affected by either of the risk factors specified in subclauses (2) and (4):
 - (a) the application is made more than 3 years after the departure of the person from Australia referred to in that subclause; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or

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

justify the granting of the visa within 3 years after the departure.

(2) Subject to subclause (3), a person is affected by a risk factor if the person left Australia after the expiry of a period of grace that applied to the person under section 13 of the Act as in force before 1 September 1994, being a period of grace that expired before 1 September 1994.

(3) Subclause (2) does not apply to a person who:

- (a) applied for review by the Migration Review Tribunal or the Refugee Review Tribunal; and
- (b) left Australia within 7 days of being notified of the decision on the application for review.

(4) Subject to subclause (5), a person is affected by a risk factor if the person left Australia as:

- (a) an unlawful non-citizen; or
- (b) the holder of a Bridging C (Class (WC), Bridging D (Class WD) or Bridging E (Class WE) visa.

(5) Subclause (4) does not apply to a person if:

- (a) the person left Australia within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case requires; or
- (b) a bridging visa held by the person at the time of departure was granted:
 - (i) within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case requires; or
 - (ii) while the person held another bridging visa granted:
 - (A) while the person held a substantive visa; or
 - (B) within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case may be.

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- 4015 The Minister is satisfied of 1 of the following:
- (a) the law of the additional applicant's home country permits the removal of the additional applicant;
 - (b) each person who can lawfully determine where the additional applicant is to live consents to the grant of the visa;
 - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the additional applicant.
- 4016 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.
- 4017 The Minister is satisfied of 1 of the following:
- (a) the law of the applicant's home country permits the removal of the applicant;
 - (b) each person who can lawfully determine where the applicant is to live consents to the grant of the visa;
 - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the applicant.
- 4018 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.
- 4019 (1) The applicant has signed a statement (a *values statement*) in accordance with Part 3.
- Note* Part 3 sets out further provisions relating to values statements and the requirements for this criterion.
- (2) However, if compelling circumstances exist, the Minister may decide that the applicant is not required to satisfy subclause (1).

Part 2 Conditions applicable to certain subclasses of visas for the purposes of subclause 4013 (2)

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4050	405 (Investor Retirement)	8104
4051	410 (Retirement)	8101 or 8104
4052	419 (Visiting Academic)	8103
4055	442 (Occupational Trainee)	8102
4055AA	470 (Professional Development)	8102, 8501, 8531 or 8536
4055AB	488 (Superyacht Crew)	8107 or 8114
4055A	497 (Graduate — Skilled)	8501
4056	560 (Student)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4057	562 (Iranian Postgraduate Student)	8105, 8202, 8501 or 8517
4058	563 (Iranian Postgraduate Student (Dependant))	8104, 8501 or 8518
4058A	570 (Independent ELICOS Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058B	571 (Schools Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058C	572 (Vocational Education and Training Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058D	573 (Higher Education Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4058E	574 (Postgraduate Research Sector) 574 (Masters and Doctorate Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058F	575 (Non-Award Sector) 575 (Non-award Foundation/Other Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058G	576 (AusAID or Defence Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058H	651 (eVisitor)	8101 or 8201
4059	661 (Tourist (Special Arrangements))	8101 or 8201
4060	670 (Tourist (Short Stay))	8101 or 8201
4061	672 (Business Visitor (Short Stay))	8201
4062	673 (Close Family Visitor (Short Stay))	8101 or 8201
4063	674 (Visitor (Other) (Short Stay))	8101 or 8201
4064	675 (Medical Treatment (Short Stay))	8101 or 8201
4065	676 (Tourist (Short Stay))	8101 or 8201
4065A	676 (Tourist)	8101 or 8201
4066	680 (Tourist)	8101 or 8201
4067	682 (Business Visitor)	8201
4068	683 (Close Family Visitor)	8101 or 8201
4069	684 (Visitor (Other))	8101 or 8201
4070	685 (Medical)	8101 or 8201
4071	686 (Tourist (Long Stay))	8101 or 8201
4072	771 (Transit)	8101 or 8201
4073	956 (Electronic Travel Authority (Business Entrant — Long Validity))	8201

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4074	976 (Electronic Travel Authority (Visitor))	8101 or 8201
4075	977 (Electronic Travel Authority (Business Entrant — Short Validity))	8201

Part 3 Requirements for public interest criterion 4019

3.1 Values statement

Statement

- (1) For public interest criterion 4019, the Minister must, by instrument in writing, approve one or more values statements for the subclasses of visas specified in the instrument.
- (2) A values statement must include provisions relating to:
 - (a) values that are important to Australian society; and
 - (b) matters concerning Australian citizenship (if relevant); and
 - (c) compliance with the laws of Australia.
- (3) A values statement may include other provisions.

Signing values statement — Internet application

- (4) For public interest criterion 4019, a values statement is taken to have been signed by an applicant who makes an Internet application if the instructions for signing the values statement are followed.

Schedule 5 Special return criteria

(regulation 1.03)

- 5001 The applicant is not:
- (a) a person who left Australia while the subject of a deportation order under:
 - (i) section 200 of the Act; or
 - (ii) section 55, 56 or 57 of the Act as in force on and after 19 December 1989 but before 1 September 1994; or
 - (iii) section 12, 13 or 14 of the Act as in force before 19 December 1989; or
 - (b) a person whose visa has been cancelled under section 501 of the Act, as in force before 1 June 1999, wholly or partly because the Minister, having regard to the person's past criminal conduct, was satisfied that the person is not of good character; or
 - (c) a person whose visa has been cancelled under section 501, 501A or 501B of the Act, wholly or partly because of paragraph 501 (6) (a), subparagraph 501 (6) (c) (i) or subparagraphs 501 (6) (c) (i) and (ii) of the Act, if the cancellation has not been revoked under subsection 501C (4) of the Act.
- 5002 If the applicant is a person who has been removed from Australia under section 198, 199 or 205 of the Act:
- (a) the application is made more than 12 months after the removal; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or
 - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;

justify the granting of the visa within 12 months after the removal.

- 5010 (1) If:
- (a) the applicant is the holder of an AusAID student visa; or
 - (b) the applicant is the holder of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who is provided financial support by the government of a foreign country;
- the applicant meets the requirements of subclause (3), (4) or (5).
- (2) If:
- (a) the applicant is not the holder of an AusAID student visa and has in the past held an AusAID student visa; or
 - (b) both:
 - (i) paragraph (a) does not apply to the applicant, and the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who was provided financial support by the government of a foreign country;
- the applicant meets the requirements of subclause (3), (4) or (5).
- (3) The applicant meets the requirements of this subclause if the course of study or training to which:
- (a) the visa mentioned in paragraph (1) (a) or (b) relates; or
 - (b) if paragraph (2) (a) applies — the AusAID student visa most recently held by the applicant related; or
 - (c) if paragraph (2) (b) applies — the last substantive visa held by the applicant related;
- (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months.

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

(a) has ceased:

(i) the course of study or training to which:

(A) the visa mentioned in paragraph (1) (a) or (b) relates; or

(B) if paragraph (2) (a) applies — the AusAID student visa most recently held by the applicant related; or

(C) if paragraph (2) (b) applies — the last substantive visa held by the applicant related; or

(ii) another course approved by the AusAID Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, in substitution for that course; and

(b) has spent at least 2 years outside Australia since ceasing the course.

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

(a) the applicant has the support of the AusAID Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, for the grant of the visa; or

(b) the Minister is satisfied that, in the particular case, waiving the requirement of paragraph (a) is justified by:

(i) compelling circumstances that affect the interests of Australia; or

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

(6) In this clause:

AusAID student visa has the same meaning as in regulation 1.04A.

cease has the same meaning as in regulation 1.04A.

Schedule 5A Evidentiary requirements for student visas

(regulation 1.44)

Part 1 Preliminary

5A101 Definitions

In this Schedule:

AASES (Acceptance Advice of Secondary Exchange Student), for a secondary exchange student, has the meaning given by clause 5A107.

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.

course fees, for an applicant in relation to a period, means the fees for each course proposed to be undertaken by the applicant in the period, as indicated by the proposed education providers in a letter or other document.

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 student 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 student 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 student 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.

foundation course means a registered course that is registered as foundation studies.

Note ***Registered course*** is defined in regulation 1.03.

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; and
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

fully funded has the meaning given by clause 5A103.

initial 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; and
 - (ii) if the application is made in Australia — on the day that the student 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 expected commencement date of the applicant's principal course;
 - (ii) the last day of the applicant's proposed stay in Australia.

living costs has the meaning given by subclause 5A104 (1).

money deposit means a money deposit with a financial institution.

school costs has the meaning given by subclause 5A104 (2).

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.

5A102 Gazettal of alternatives to the IELTS test

The Minister may specify in a Gazette Notice:

- (a) an English language proficiency test as an alternative to the IELTS test; and
- (b) the foreign country or countries in which that test may be taken by an applicant; and
- (c) the test score that must be achieved by the applicant for this clause.

5A103 Meaning of fully funded

- (1) An applicant is *fully funded* if the applicant's costs listed in subclause (2) will be met by one or more of the following:
 - (a) a multilateral agency;
 - (b) the government of a foreign country;
 - (c) the Commonwealth Government, or the government of a State or Territory.
- (2) The costs for subclause (1) are the following costs for the applicant's full period, assessed for the applicant alone:
 - (a) course fees;
 - (b) living costs;
 - (c) travel costs.

5A104 Meaning of living costs and school costs

- (1) An applicant's *living costs* for a period are taken to accrue at the sum of the rates set out in the following table:

Item	Description of applicant	Rate
1	<p>Applicant who is subject to assessment level 2, 3 or 4, and who is:</p> <ul style="list-style-type: none"> (a) fully funded; or (b) 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, will be met by: <ul style="list-style-type: none"> (i) a provincial or state government in a foreign country, with the written support of the government of that country; or (ii) an organisation specified by the Minister in a Gazette Notice for this clause; or (c) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government 	<ul style="list-style-type: none"> (a) an amount specified by the Minister in an instrument in writing for this clause (the basic rate); and (b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and (c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and (d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child
2	<p>Applicant:</p> <ul style="list-style-type: none"> (a) who is subject to assessment level 3 or 4; and (b) who is not funded, wholly or partly, by: <ul style="list-style-type: none"> (i) the Commonwealth Government, or the government of a State or Territory; or (ii) the government of a foreign country; or (iii) a multilateral agency; and (c) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and 	<ul style="list-style-type: none"> (a) an amount specified by the Minister in an instrument in writing for this clause (the basic rate); and (b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and (c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and

Item	Description of applicant	Rate
3	<p>(d) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months</p> <p>Applicant who:</p> <p>(a) is subject to assessment level 2; and</p> <p>(b) has the support of the AusAID Minister or the Defence Minister</p>	<p>(d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child</p> <p>(a) an amount specified by the Minister in an instrument in writing for this clause (the basic rate); and</p> <p>(b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and</p> <p>(c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and</p> <p>(d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child</p>
4	<p>Applicant to whom items 1, 2 and 3 do not apply</p>	<p>(a) an amount specified by the Minister in an instrument in writing for this clause (the basic rate); and</p> <p>(b) if the applicant has a spouse or de facto partner — 35% of the basic rate; and</p>

Item	Description of applicant	Rate
		(c) if the applicant has a dependent child — 20% of the basic rate; and
		(d) if the applicant has any further dependent children — 15% of the basic rate for each such child

(2) An applicant's *school costs* are taken to accrue at the sum of the rates set out in the following table:

Item	Description of applicant	Rate
1	Applicant who is subject to assessment level 2, 3 or 4, and who is:	\$8 000 per year for each child who is:
	(a) fully funded; or	(a) a school-age dependant at the time; and
	(b) 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, will be met by:	(b) a family applicant
	(i) a provincial or state government in a foreign country, with the written support of the government of that country; or	
	(ii) an organisation specified by the Minister in a Gazette Notice for this clause; or	
	(c) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government	

Item	Description of applicant	Rate
2	<p>Applicant:</p> <p>(a) who is subject to assessment level 3 or 4; and</p> <p>(b) who is not funded, wholly or partly, by:</p> <p>(i) the Commonwealth Government, or the government of a State or Territory; or</p> <p>(ii) the government of a foreign country; or</p> <p>(iii) a multilateral agency; and</p> <p>(c) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and</p> <p>(d) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months</p>	<p>\$8 000 per year for each child who is:</p> <p>(a) a school-age dependant at the time; and</p> <p>(b) a family applicant</p>
3	<p>Applicant who:</p> <p>(a) is subject to assessment level 2; and</p> <p>(b) has the support of the AusAID Minister or the Defence Minister</p>	<p>\$8 000 per year for each child who is:</p> <p>(a) a school-age dependant at the time; and</p> <p>(b) a family applicant</p>
4	Applicant to whom items 1, 2 and 3 do not apply	\$8 000 per year for each child who is a school-age dependant at the time (whether or not the child is a family applicant)

5A106 Satisfying a proposed education provider about English language proficiency

A provision in this Schedule that requires an applicant to give evidence of a level of English language proficiency that satisfies his or her proposed education provider requires evidence that the education provider of each of the applicant's proposed courses is satisfied that the applicant will, when the course begins, have an adequate level of English language proficiency, taking into account any ELICOS or other course that the applicant will undertake in Australia before the course concerned.

5A107 Secondary exchange student must give AASES

An applicant seeking to satisfy the primary criteria in Subclass 571 (Schools Sector) who is a secondary exchange student must give the declarations made by:

- (a) the applicant's exchange organisation, accepting the student; and
- (b) the applicant's parents, or the person or persons having custody of the applicant, agreeing to the exchange;

on an Acceptance Advice of Secondary Exchange Student form from the relevant State or Territory education authority (the *AASES* for the applicant).

Note For the definition of *custody*, see regulation 1.03.

5A108 Applicant must show enrolment or offer of place

- (1) If the applicant is not a secondary exchange student, or is not seeking to satisfy primary criteria in Subclass 576 (AusAID or Defence Sector), or did not make his or her application using form 157E, the applicant must give, for each course proposed to be undertaken under the visa:
 - (a) a certificate of enrolment; or
 - (b) evidence that the applicant has been offered a place in the course.
- (2) Subclause (1) does not apply to an applicant seeking to satisfy primary criteria in Subclass 574 (Postgraduate Research Sector) if:

-
- (a) his or her application was made in Australia; and
 - (b) at the time of the application, the applicant was the holder of a Subclass 560, 562 or 574 visa; and
 - (c) 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.

5A109 Requirement to give declaration

In this Schedule, if:

- (a) an applicant is required to give a declaration for any purpose; and
- (b) the applicant is less than 18 years of age —

the requirement to give the declaration is to be read as a requirement for a parent of the applicant, or a person having custody of the applicant, to give the declaration on the applicant's behalf.

Part 2 Subclass 570 (Independent ELICOS Sector)

Division 1 Requirements for assessment level 5

5A201 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A202 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A203 Other requirements

The applicant must give evidence that:

- (a) the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) the applicant has the educational qualifications required by his or her education provider; and
- (c) satisfies the Minister that the applicant needs English language tuition:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A204 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (b) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider;
- (c) the applicant had, less than 2 years before the date of the application:

-
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

- (d) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

5A205 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after 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.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and

-
- (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and

- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

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) financial support from:
 - (i) the government of a foreign country; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) a multilateral agency; or
 - (iv) the applicant's proposed education provider; 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;
- (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;

- (d) a loan from the government of the applicant's home country.

5A206 Other requirements

The applicant must give evidence:

- (a) that the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) that the applicant has the educational qualifications required by his or her education provider.

Division 3 Requirements for assessment level 3

5A207 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A208 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 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.

(1A) If the applicant is:

- (a) fully funded; or
- (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and

-
- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
 - (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

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 an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) 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 applicant in a role in relation to which the applicant's principal course is of direct relevance; or
- (iv) a multilateral agency; or
- (v) the applicant's proposed education provider; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

5A209 Other requirements

The applicant must give evidence:

- (a) of his or her previous schooling, training or other study; and
- (b) that the ELICOS that he or she is to undertake will be of no more than 50 weeks duration.

Division 4 Requirements for assessment level 2

5A210 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A211 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

-
- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A212 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by his or her education provider.

Division 5 Requirements for assessment level 1

5A213 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A214 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

Part 3 Subclass 571 (Schools Sector)

Division 1 Requirements for assessment level 5

5A301 English language proficiency

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.
- (2) If the applicant is a secondary exchange student, the applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A302 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has a further amount specified by the Minister in an instrument in writing for this paragraph; and

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- (c) the applicant has funds that are sufficient to meet the following expenses for the period of 12 months following the full period:
 - (i) living costs;
 - (ii) school costs; and
 - (d) the applicant has funds that are sufficient to meet travel costs; and
 - (e) the funds (including the amount mentioned in paragraph (b)) have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
 - (f) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A303 Other requirements

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence that:
 - (a) he or she is to undertake schooling in Australia at the secondary level for at least 2 years; and
 - (b) he or she has successfully completed secondary schooling to at least the year 9 level (or its equivalent); and
 - (c) the principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position; and
 - (d) he or she was, or will be:
 - (i) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (ii) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and
 - (iii) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and
 - (iv) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12.

- (2) The applicant must not undertake studies at the year 8 level or lower unless he or she is a secondary exchange student.

Division 2 Requirements for assessment level 4

5A304 English language proficiency

- (1) An applicant:
- (a) who is a secondary exchange student; or
 - (b) who is in Australia at time of application; or
 - (c) who is:
 - (i) outside Australia at time of application; and
 - (ii) less than 16 years old at time of application; or
 - (d) who:
 - (i) applies before 1 April 2004; and
 - (ii) is outside Australia at time of application; and
 - (iii) is at least 16 years old at time of application; or
 - (e) who has undertaken at least 5 years of study in English in 1 or more of the following countries:
 - (i) Australia;
 - (ii) Canada;
 - (iii) New Zealand;
 - (iv) South Africa;
 - (v) the Republic of Ireland;
 - (vi) the United Kingdom;
 - (vii) the United States of America;
- must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.
- (2) An applicant who:
- (a) is not a secondary exchange student; and
 - (b) will undertake an ELICOS (or other English language tuition) before commencing his or her principal course;
- must give evidence that the ELICOS (or other English language tuition) will have a duration of no more than 30 weeks.

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- (3) An applicant:
- (a) to whom subclause (1) does not apply; and
 - (b) who is not undertaking an ELICOS (or other English language tuition) before commencing his or her principal course;
- must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the time of making the decision on the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102.
- (4) An applicant:
- (a) to whom subclause (1) does not apply; and
 - (b) is undertaking an ELICOS (or other English language tuition) before commencing his or her principal course;
- must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the time of making the decision on the application, an Overall Band Score of at least 4.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102.
- (5) The Minister may waive the requirements of subclause (3) or (4).
- (6) If the Minister proposes to waive the requirements of subclause (3) or (4) in relation to an application made by a PRC applicant, the Minister must be satisfied of the matters in subclause (7) or (8).
- (7) For subclause (6), the Minister:
- (a) must be satisfied that:
 - (i) the PRC applicant has achieved satisfactory results in an English language proficiency test conducted under appropriate test conditions, other than:
 - (A) an IELTS test; or
 - (B) an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and

- (ii) the PRC applicant has a written statement from the education provider of the PRC applicant's proposed principal course, supporting the waiver of the requirements of the subclause; or
- (b) must be satisfied that:
 - (i) the PRC applicant has been accepted into the academic stream in the senior secondary school system of the PRC; and
 - (ii) the PRC applicant has achieved a result of at least 75% in English language studies for the PRC applicant's Certificate of Graduation from Junior Secondary School; and
 - (iii) the PRC applicant has a written statement from the education provider of the PRC applicant's proposed principal course, supporting the waiver of the requirements of the subclause.
- (8) For subclause (6), the Minister:
 - (a) must be satisfied that:
 - (i) the PRC applicant has achieved satisfactory results in an English language proficiency test conducted under appropriate test conditions, other than:
 - (A) an IELTS test; or
 - (B) an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) the application was made by a PRC applicant, and lodged by an agent of the education provider; and
 - (iii) the education provider has nominated the agent to represent the provider; and
 - (iv) the agent and the education provider have a written agreement under which the agent represents the provider; and
 - (v) the agent has lodged at least 10 applications made by PRC applicants in the financial year ending before the start of the designated period in which the current application is made; and

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- (vi) at least 70% of the applications that were lodged by the agent for PRC applicants, and decided in the financial year ending before the start of the designated period in which the current application is made, resulted in the grant of Subclass 571 visas; and
 - (vii) the agent agrees to give the education provider information, each month, about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants who have been offered a place in a principal course provided by the provider; and
 - (B) the results of those applications; and
 - (viii) the agent agrees to the Minister giving the education provider information about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants (including PRC applicants who were offered a place in a principal course provided by the provider); and
 - (B) the results of those applications; or
- (b) must be satisfied that:
- (i) the PRC applicant has been accepted into the academic stream in the senior secondary school system of the PRC; and
 - (ii) the PRC applicant has achieved a result of at least 75% in English language studies for the PRC applicant's Certificate of Graduation from Junior Secondary School; and
 - (iii) the application was made by a PRC applicant, and lodged by an agent of the education provider; and
 - (iv) the education provider has nominated the agent to represent the provider; and
 - (v) the agent and the education provider have a written agreement under which the agent represents the provider; and

- (vi) the agent has lodged at least 10 applications made by PRC applicants in the financial year ending before the start of the designated period in which the current application is made; and
 - (vii) at least 70% of the applications that were lodged by the agent for PRC applicants, and decided in the financial year ending before the start of the designated period in which the current application is made, resulted in the grant of Subclass 571 visas; and
 - (viii) the agent agrees to give the education provider information, each month, about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants who have been offered a place in a principal course provided by the provider; and
 - (B) the results of those applications; and
 - (ix) the agent agrees to the Minister giving the education provider information about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants (including PRC applicants who were offered a place in a principal course provided by the provider); and
 - (B) the results of those applications.
- (9) In this clause:
- designated period*** means:
- (a) the period of 12 months starting on 1 April in a year; or
 - (b) another period determined by the Minister in writing for this paragraph.
- PRC applicant*** means a PRC citizen who:
- (a) is in the PRC; and
 - (b) is not in the Hong Kong Special Administrative Region or the Macau Special Administrative Region; and
 - (c) has applied to undertake, as a principal course, a course gazetted under regulation 1.40A for Subclass 571 visas.

(10) In subclauses (7) and (8):

education provider means the education provider of the PRC applicant's proposed principal course.

5A305 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence, in accordance with this clause, that:
- (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (d) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (e) 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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and

- (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course; a money deposit held by an acceptable individual;

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- (aa) if paragraph (a) does not apply — 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 applicant's home country;
 - (d) financial support (such as a scholarship) from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; 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.

5A306 Other requirements

- (1) If the applicant is not a secondary exchange student, the applicant:
 - (a) must give evidence that:
 - (i) either:
 - (A) the principal course will be of at least 16 months duration; or
 - (B) he or she has undertaken, outside Australia, a secondary course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider and is recognised by the relevant State or Territory education authority as meeting the requirements for successful completion of those years; and

- (ii) he or she has successfully completed secondary schooling to at least the Year 9 level (or its equivalent); and
 - (iii) he or she was, or will be:
 - (A) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (B) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and
 - (C) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and
 - (D) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12; or
 - (b) must:
 - (i) lodge his or her visa application in Australia, but not in immigration clearance; and
 - (ii) give evidence that he or she has successfully completed Year 11 secondary schooling in Australia; and
 - (iii) give evidence that he or she is enrolled in Year 12 in Australia.
- (2) The applicant must not undertake studies at the year 8 level or lower unless he or she is a secondary exchange student.

Division 3 Requirements for assessment level 3

5A307 English language proficiency

- (1) The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.
- (2) If the applicant:
 - (a) is not a secondary exchange student; and

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- (b) must undertake an ELICOS (or other English language bridging course) before commencing his or her principal course in order to satisfy the English language proficiency requirements of the education provider;

he or she must give evidence that the ELICOS (or other English language bridging course) will have a duration of no more than 40 weeks.

5A308 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give, in accordance with this clause, evidence that:
- (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and
 - (b) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) 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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and

- (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) 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, will be met by:
- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause, *funds from an acceptable source* means one or more of the following:
- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
a money deposit held by the applicant or a person providing support to the applicant;
 - (aa) if paragraph (a) does not apply — a money deposit that the applicant, or a person 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 an individual who is providing support to the applicant;
 - (c) a loan from the government of the applicant's home country;

- (d) financial support (such as a scholarship) from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A309 Other requirements

If the applicant is not a secondary exchange student, the applicant:

- (a) must give evidence that:
 - (i) either:
 - (A) the principal course will be of at least 16 months duration; or
 - (B) he or she has undertaken, outside Australia, a secondary course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider and is recognised by the relevant State or Territory education authority as meeting the requirements for successful completion of those years; and
 - (ii) he or she has successfully completed schooling to at least the Year 6 level (or its equivalent); and

- (iii) he or she was, or will be:
 - (A) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (B) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and
 - (C) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and
 - (D) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12; or
- (b) must:
 - (i) lodge his or her visa application in Australia, but not in immigration clearance; and
 - (ii) give evidence that he or she has successfully completed Year 11 secondary schooling in Australia; and
 - (iii) give evidence that he or she is enrolled in Year 12 in Australia.

Division 4 Requirements for assessment level 2

5A310 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A311 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;

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- (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A312 Other requirements

If the applicant is not a secondary exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence that he or she has the educational qualifications required by his or her education provider.

Division 5 Requirements for assessment level 1

5A313 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A314 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

5A315 Other requirements

If the applicant is not a secondary exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence that he or she has the educational qualifications required by his or her education provider.

Part 4 Subclass 572 (Vocational Education and Training Sector)

Division 1 Requirements for assessment level 5

5A401 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A402 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A403 Other requirements

- (1) The applicant must give evidence:
 - (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
 - (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
 - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course; and
 - (c) that the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or

- (iii) to perform the functions of his or her current position.
- (2) In this clause, *vocational education and training course* means a vocational education and training course that is at the diploma or advanced diploma level.

Division 2 Requirements for assessment level 4

5A404 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course— will undertake an ELICOS of no more than 20 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:

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- (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;

- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A405 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after 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.
- (1A) If the applicant is:
 - (a) fully funded; or

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- (b) an applicant:
- (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) 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, will be met by:
- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course; a money deposit held by an acceptable individual;

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- (aa) if paragraph (a) does not apply — a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
 - (b) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation;
 - (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
 - (d) a loan from the government of the applicant's home country.

5A406 Other requirements

- (1) The applicant must give evidence:
 - (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
 - (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or

- (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.
- (2) In this clause, *vocational education and training course* means a vocational education and training course that:
- (a) leads to the award of a qualification from the Australian Qualification Framework at the diploma level; or
 - (b) leads to the award of a qualification from the Australian Qualification Framework at the advanced diploma level; or
 - (c) is a course of at least 1 year's duration that leads to the award of a qualification from the Australian Qualification Framework at the Certificate IV level.

Division 3 Requirements for assessment level 3

5A407 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;
- (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and

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- (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A408 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and

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- (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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
- a money deposit held by the applicant or an individual who is providing support to the applicant;

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- (aa) if paragraph (a) does not apply — 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 an individual who is providing support to the applicant;
 - (c) a loan from the government of the applicant's home country;
 - (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A409 Other requirements

The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent); and
- (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or

- (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
- (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.

Division 4 Requirements for assessment level 2

5A410 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A411 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
 - (a) fully funded; or

(b) 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, will be met by:

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

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Division 5 Requirements for assessment level 1

5A412 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A413 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

Part 5 Subclass 573 (Higher Education Sector)

Division 1 Requirements for assessment level 5

5A501 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A502 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A503 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A504 English language proficiency

- (1) The applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (aa) the applicant:
 - (i) has achieved, in an IELTS test that was taken less than 2 years before the time of making the application, an Overall Band Score of at least 5.5 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken before commencing the applicant's principal course;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and

- (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

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- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (e) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.
 - (2) For subclause (1), an applicant is not required to give evidence of English language proficiency if:
 - (a) the application was made outside Australia; and
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.

5A505 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;

- (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after 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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;

- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
- a money deposit held by an acceptable individual;
- (aa) if paragraph (a) does not apply — 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 applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or

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- (viii) an acceptable non-profit organisation.

5A506 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); or
- (b) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed in Australia a foundation course; or
- (c) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or
- (f) he or she has a certificate of enrolment in a course that:
 - (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or

- (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
 - (i) is specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) was conducted outside Australia.

Division 3 Requirements for assessment level 3

5A507 English language proficiency

- (1) The applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (aa) the applicant has:
 - (i) achieved, in an IELTS test that was taken less than 2 years before the time of making the application, an Overall Band Score of at least 5.5 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) enrolled in a foundation course before commencing the applicant's principal course;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;

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- (c) the applicant:
- (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or

- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (e) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.
- (2) For subclause (1), an applicant is not required to give evidence of English language proficiency if:
- (a) the application was made outside Australia; and
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the ***gazetted course***); and
 - (ii) will not undertake any other course before commencing the gazetted course.

5A508 Financial capacity

- (1) The applicant must give, in accordance with this clause:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or

- (c) 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, will be met by:
- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
- (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
- (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;

- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;a money deposit held by the applicant or an individual who is providing support to the applicant;
- (b) if paragraph (a) does not apply — 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;
- (c) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (d) a loan from the government of the applicant's home country;
- (e) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or

- (v) a multilateral agency; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

5A509 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); or
- (b) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed in Australia a foundation course; or
- (c) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or

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- (f) he or she has a certificate of enrolment in a course that:
 - (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or
 - (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
 - (i) is specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) was conducted outside Australia.

Division 4 Requirements for assessment level 2

5A510 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A511 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.

- (1A) If the applicant is:
- (a) fully funded; or
 - (b) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A512 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by his or her proposed education provider.

Division 5 Requirements for assessment level 1

5A513 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A514 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;

- (iii) school costs; and
- (b) travel costs.

5A515 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

Part 6 Subclass 574 (Postgraduate Research Sector)

Division 1 Requirements for assessment level 5

5A601 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A602 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A603 Other requirements

The applicant must give evidence that:

- (a) he or she has completed an undergraduate degree or its equivalent; and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A604 English language proficiency

- (1) An applicant is not required to provide evidence of English language proficiency if the application was made outside Australia, and:
 - (a) the applicant provides evidence that he or she has successfully completed a course, or a course that is included in a class of courses, specified in a Gazette Notice for this paragraph; or
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;

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- (b) the applicant:
- (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
- (i) is fully funded or holds an International Postgraduate Research Scholarship funded by the Commonwealth Government; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or

- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A605 Financial capacity

- (1) The applicant must give, in accordance with this clause:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
 - (d) 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.
- (1A) If the applicant:
- (a) is fully funded; or
 - (b) is an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or

- (c) is 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (d) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and

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- (B) not more than 3 overseas students in a course intake; or
 - (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
- a money deposit held by an acceptable individual;
- (aa) if paragraph (a) does not apply — 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 applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or

- (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
- (v) a multilateral agency; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

5A606 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 3 Requirements for assessment level 3

5A607 English language proficiency

- (1) An applicant is not required to provide evidence of English language proficiency if the application was made outside Australia, and:
 - (a) the applicant provides evidence that he or she has successfully completed a course, or a course that is included in a class of courses, specified in a Gazette Notice for this paragraph; or
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:

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- (a) the applicant:
- (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
- (b) the applicant:
- (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
- (i) is fully funded or holds an International Postgraduate Research Scholarship funded by the Commonwealth Government; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or

- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;

- (D) South Africa;
- (E) the Republic of Ireland;
- (F) the United Kingdom;
- (G) the United States of America.

5A608 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
 - (d) 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.
- (1A) If the applicant:
 - (a) is fully funded; or
 - (b) is an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and

- (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) is 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (d) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:

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- (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit held by the applicant or by an individual who is providing support to the applicant;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A609 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 4 Requirements for assessment level 2

5A610 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A611 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant:
 - (a) is fully funded; or
 - (b) is 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or

- (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (c) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A612 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 5 Requirements for assessment level 1

5A613 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A614 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

5A615 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

Part 7 Subclass 575 (Non-Award Sector)

Division 1 Requirements for assessment level 5

5A701 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A702 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A703 Other requirements

The applicant must give:

- (a) evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) (despite paragraph 5A108 (a)) a certificate of enrolment in the principal course; and
- (c) evidence that the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or

- (ii) to improve his or her prospects of promotion or of obtaining other employment; or
- (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A704 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 20 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and

- (B) in English; or
- (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;

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- (f) the applicant has:
- (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A705 Financial capacity

- (1) The applicant must give, in accordance with this clause:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after 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.
- (1A) If the applicant is:
- (a) fully funded; or

- (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

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) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; 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;
- (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
- (d) a loan from the government of the applicant's home country.

5A706 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent).

Division 3 Requirements for assessment level 3

5A707 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;

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- (c) the applicant:
- (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or

- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A708 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

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- (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 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.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

(a) a scholarship that:

- (i) is awarded on the basis of merit and an open selection process; and
- (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or

(b) a waiver of the applicant's course fees carried out in the following circumstances:

- (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

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 an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A709 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent).

Division 4 Requirements for assessment level 2

5A710 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A711 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) 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, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Division 5 Requirements for assessment level 1

5A712 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A713 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

Part 8 Subclass 576 (AusAID or Defence Sector)

Division 1 Requirements for assessment level 5

5A801 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A802 Financial capacity

The applicant must give evidence, in accordance with this clause, that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A803 Other requirements

The applicant must give evidence:

- (a) that he or she is:
 - (i) a person who has the support of the AusAID Minister; or
 - (ii) a person who has the support of the Defence Minister; and
- (b) of the expected duration of the applicant's study or training in Australia.

Division 2 Requirements for assessment level 2

5A804 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider or training organisation.

5A805 Financial capacity

- (1) Subject to subclause (2), if the applicant has the support of the AusAID Minister or the Defence Minister, the applicant must give evidence of that fact.
- (2) If required to do so in writing by the Minister, the applicant must also give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;

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- (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months; and
 - (d) the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (3) In this clause, *funds from an acceptable source* means one or more of the following:
- (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
 - (b) a loan from a financial institution;
 - (c) a loan from the government of the applicant's home country;
 - (d) financial support (such as a scholarship) from:
 - (i) the government of a foreign country; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) a business; or
 - (iv) a multilateral agency;
 - (e) support from the AusAID Minister or the Defence Minister.

5A806 Other requirements

The applicant must give evidence:

- (a) that he or she is:
 - (i) a person who has the support of the AusAID Minister; or
 - (ii) a person who has the support of the Defence Minister; and

- (b) of the expected duration of the applicant's study or training in Australia.

Schedule 5B Evidentiary requirements for student visas — secondary applicants

(Schedule 2, clauses 570.332, 571.332, 572.332, 573.332, 574.332, 575.332 and 576.333)

Part 1 Preliminary

5B101 Definitions

In this Schedule:

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 it proposes to provide.

course fees, for an applicant in relation to a period, means the fees for each course proposed to be undertaken by the primary person in the period, as indicated by the proposed education provider in a letter or other document.

family applicant means a member of the primary person's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the primary person.

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.

financial support, from the education provider or proposed education provider of a primary person who is the holder of a Subclass 570, 572, 573, 574 or 575 visa, means:

- (a) a scholarship awarded to the primary person that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to the primary person as a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the primary person's course fees carried out in the following circumstances:
 - (i) the primary person is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the primary person is studying, or proposes to study, full-time;
 - (iii) the primary person's proposed studies will be credited to a course undertaken by the primary person in the primary person's home country.

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 student 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 student 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 student 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.

initial 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 student 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 expected commencement date of the primary person's principal course;

- (ii) the last day of the applicant's proposed stay in Australia.

living costs has the meaning given by subclause 5B102 (1).

money deposit means a money deposit with a financial institution.

primary person means the holder of a student visa that was granted on the basis of the holder meeting the primary criteria for the student visa.

school costs has the meaning given by subclause 5B102 (2).

travel costs, for an applicant, means the sum of costs for each of the applicant, any family applicant, the primary person and any member of the primary person's family unit who is the holder of a student visa:

- (a) if the applicant, family applicant, primary person or member of the primary person's family unit is not in Australia when the application is made — of travelling to Australia; and
- (b) of returning to that person's home country at the end of his or her stay.

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.

5B102 Meaning of living costs and school costs

- (1) An applicant's *living costs* for a period are taken to accrue at the sum of the following rates:
 - (a) for the primary person — an amount specified by the Minister in an instrument in writing for this paragraph (the *basic rate*);
 - (b) if the primary person has a spouse or de facto partner who is a family applicant or the holder of a student visa — 35% of the basic rate;
 - (c) if the primary person has a dependent child who is a family applicant or the holder of a student visa — 20% of the basic rate;
 - (d) if the primary person has any further dependent child who is a family applicant or the holder of a student visa — 15% of the basic rate for each such child.

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- (2) An applicant's *school costs* are taken to accrue at the sum of the following rates:
- (a) if the applicant is a school-age dependant — \$8 000 per year;
 - (b) for each child who is:
 - (i) a school-age dependant at the time; and
 - (ii) a family applicant or the holder of a student visa; \$8 000 per year.

5B103 Declarations

In this Schedule, a requirement that an applicant give a declaration of a matter is taken, for a person who is less than 18 years old, to be a requirement that:

- (a) a parent of the applicant; or
 - (b) a person having custody of the applicant;
- give the declaration on the applicant's behalf.

Part 2 Evidentiary requirements for assessment level 4

5B201 Requirements for assessment level 4 (Subclass 570, 571, 572, 573 or 575 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 570, 571, 572, 573 or 575 visa; and
 - (b) was subject to assessment level 4 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months.

(3) In this clause:

acceptable individual means one or more of the following:

- (a) the primary person;
- (b) the primary person's spouse or de facto partner;
- (c) the primary person's parents;
- (d) the primary person's grandparents;
- (e) the primary person's brothers and sisters;
- (f) an uncle or aunt of the primary person who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

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 that is made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or

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- (iii) the government of a foreign country; or
 - (iv) unless the primary person 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 primary person in a role in relation to which the primary person's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5B202 Requirements for assessment level 4 (Subclass 574 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 574 visa; and
 - (b) was subject to assessment level 4 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the initial period.

(3) In this clause:

acceptable individual means one or more of the following:

- (a) the primary person;
- (b) the primary person's spouse or de facto partner;
- (c) the primary person's parents;
- (d) the primary person's grandparents;
- (e) the primary person's brothers and sisters;
- (f) an uncle or aunt of the primary person who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

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 that is made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and

- (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
- (v) a multilateral agency; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

Part 3 Evidentiary requirements for assessment level 3

5B301 Requirements for assessment level 3 (Subclass 570, 571, 572, 573 or 575 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 570, 571, 572, 573 or 575 visa; and
 - (b) was subject to assessment level 3 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months.

(3) In this clause:

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 that is made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5B302 Requirements for assessment level 3 (Subclass 574 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 574 visa; and
 - (b) was subject to assessment level 3 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; 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 stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the initial period.
- (3) In this clause:

funds from an acceptable source means one or more of the following:

 - (a) a money deposit held by the applicant, or an individual who is providing support to the applicant;
 - (b) a loan from a financial institution that is made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
 - (c) a loan from the government of the primary person's home country;

- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

Part 4 Evidentiary requirements for assessment level 2

5B401 Requirements for assessment level 2

- (1) This clause applies if a primary person:
 - (a) is the holder of a student visa; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (3) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Schedule 6 **General points test — qualifications and points**

(regulations 2.26 and 2.27)

Part 1 **Employment qualification**

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6101	<p>The applicant:</p> <ul style="list-style-type: none">(a) applies to enter Australia on the basis of an occupation:<ul style="list-style-type: none">(i) that is the applicant’s usual occupation; and(ii) that is a priority occupation; and(iii) for which, in Australia, a degree, trade certificate, diploma, associate diploma or post-trade qualification is required or that is a professional-equivalent or technical-equivalent occupation; and(iv) in respect of which, at least 3 years before the relevant application was made, the applicant:<ul style="list-style-type: none">(A) obtained a degree, trade certificate, diploma, associate diploma or post-trade qualification assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or(B) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or	80

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6102	<p>(C) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and</p> <p>(b) has in respect of that occupation, qualifications or experience (or both) required for the purpose of any Australian occupational licence or registration (or both); and</p> <p>(c) was employed in that occupation on the day that is 3 years before the day on which the relevant application was made; and</p> <p>(d) has worked in that occupation or in a closely related occupation for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made</p> <p>The applicant's usual occupation:</p> <p>(a) is not a priority occupation; and</p> <p>(b) is an occupation:</p> <p>(i) for which, in Australia, a degree or trade certificate is required; or</p> <p>(ii) that is a professional-equivalent occupation; and</p> <p>(c) is an occupation in respect of which, at least 3 years before the relevant application was made, the applicant:</p> <p>(i) obtained a degree, trade certificate, diploma, associate diploma or post-trade qualification assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p>	70

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (ii) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or (iii) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and (d) is an occupation in respect of which the applicant has qualifications or experience (or both) required for the purpose of holding any Australian occupational licence or registration (or both); and (e) is an occupation in which the applicant was employed on the day that is 3 years before the day on which the relevant application was made; and (f) is an occupation: <ul style="list-style-type: none"> (i) in which the applicant has worked; or (ii) is closely related to an occupation in which the applicant has worked; for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made 	
6103	<p>The applicant would meet the qualification specified in item 6102 except that:</p> <ul style="list-style-type: none"> (a) the applicant did not obtain or complete the qualification referred to in paragraph (c) of that item at least 3 years before the application was made; or (b) the applicant was not employed in the occupation on the day that is 3 years before the application was made; or 	60

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6104	<p>(c) the applicant had not worked in the occupation or a closely related occupation for a period of 2 years, or periods totalling 2 years, in the period of 3 years ending on the day before the application was made</p> <p>The applicant's usual occupation:</p> <p>(a) is not a priority occupation; and</p> <p>(b) is an occupation:</p> <p>(i) for which, in Australia, a diploma or associate diploma is required; or</p> <p>(ii) that is a technical-equivalent occupation; and</p> <p>(c) is an occupation in respect of which, at least 3 years before the relevant application was made, the applicant:</p> <p>(i) obtained a diploma or associate diploma assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p> <p>(ii) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p> <p>(iii) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and</p> <p>(d) is an occupation in respect of which the applicant has qualifications or experience (or both) required for the purpose of holding any Australian occupational licence or registration (or both); and</p> <p>(e) is an occupation in which the applicant was employed on the day that is 3 years before the day on which the relevant application was made; and</p>	55

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	(f) is an occupation: <ul style="list-style-type: none">(i) in which the applicant has worked; or(ii) is closely related to an occupation in which the applicant has worked; for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made	
6105	The applicant would meet the qualification specified in item 6104 except that: <ul style="list-style-type: none">(a) the applicant did not obtain or complete the qualification referred to in paragraph (c) of that item at least 3 years before the application was made; or(b) the applicant was not employed in the occupation on the day that is 3 years before the application was made; or(c) the applicant had not worked in the occupation or a closely related occupation for a period of 2 years, or periods totalling 2 years, in the period of 3 years ending on the day before the application was made	50
6106	The applicant: <ul style="list-style-type: none">(a) applies to enter Australia on the basis of an occupation which is the applicant's usual occupation, being an occupation:<ul style="list-style-type: none">(i) for which, in Australia, a degree, diploma, associate diploma or trade certificate is required; and(ii) in respect of which the applicant has a degree, diploma, associate diploma or trade certificate that qualifies the applicant to enter that occupation in the foreign country that is the applicant's usual country of residence; and	30

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6107	<p>(iii) in respect of which the qualifications of the applicant are assessed by the relevant Australian authority as requiring upgrading by a course of training lasting not more than 6 months before being equivalent to Australian standards for that occupation; and</p> <p>(b) has, in relation to such an occupation, the attributes referred to in paragraph 6101 (c)</p> <p>The applicant:</p> <p>(a) applies to enter Australia:</p> <p>(i) on the basis of an occupation that is the applicant's usual occupation, being an occupation entry to which in Australia requires a certificate or advanced certificate; and</p> <p>(ii) as a person who has educational qualifications equivalent to completion of 4, 5 or 6 years of secondary education in Australia; and</p> <p>(iii) as a person who has a certificate or advanced certificate that meets Australian standards for that occupation, or has work experience that is assessed by the relevant Australian authority to be equivalent to a post-secondary qualification of that kind; or</p> <p>(b) has an occupation:</p> <p>(i) that is the applicant's usual occupation; and</p> <p>(ii) entry to which in Australia requires a degree, diploma, associate diploma or trade certificate; and</p>	25

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	(iii) in respect of which the applicant has a degree, diploma, associate diploma or trade certificate, or possesses work experience, assessed by the relevant Australian authority as not equivalent to Australian Standards for that occupation	
6108	The applicant has: (a) an occupation that is the applicant's usual occupation; and (b) has educational qualifications equivalent to 12 years of primary and secondary education in Australia	20
6109	The applicant has: (a) an occupation that is the applicant's usual occupation; and (b) educational qualifications equivalent to 10 years of primary and secondary education in Australia	10
<p><i>Note</i> If the applicant's usual occupation is that of medical practitioner (including specialist medical practitioner), 25 points are to be deducted: see paragraph 2.26 (3) (c).</p>		

Part 2 Age qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6201	The applicant is aged not less than 18 years and under 30 years at time of application	30
6202	The applicant is aged not less than 30 years and under 35 years at time of application	25
6203	The applicant is aged not less than 35 years and under 40 years at time of application	20
6204	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6205	The applicant is aged not less than 45 years and under 50 years at the time of application	5

Part 3 Language skill qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6302	The applicant provides evidence of having passed the Occupational English Test: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6303	The applicant provides evidence of having achieved an ACCESS test score of at least 5 on each of the 4 test components of listening, reading, writing and oral interaction in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6304	The applicant provides evidence of having achieved an IELTS test score of at least 6.0 on each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6306	The applicant provides evidence of having achieved an ACCESS test score of at least 15 taking into account the 3 best of the applicant's scores based on the 4 test components of listening, reading, writing and oral interaction in a test conducted:	15

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6307	<p>(a) not more than 12 months before lodging the relevant application to migrate; or</p> <p>(b) at the time of the processing of the relevant application to migrate</p> <p>The applicant provides evidence of having achieved an IELTS average band score of at least 6.0 on the 3 best of the applicant's scores based on the 4 test components of speaking, reading, writing and listening in a test conducted:</p> <p>(a) not more than 12 months before lodging the relevant application to migrate; or</p> <p>(b) at the time of the processing of the relevant application to migrate</p>	15
6308	<p>The applicant provides evidence of having completed all years of primary education and at least 3 years of secondary education at educational institutions in which all instruction was conducted in English</p>	10
6309	<p>The applicant provides evidence of having completed at least 5 years of secondary education at educational institutions in which all instruction was conducted in English</p>	10
6310	<p>The applicant provides evidence of having achieved an ACCESS test score of at least 15 with a minimum of 3 for each of the 4 test components of listening, reading, writing and oral interaction in a test conducted:</p> <p>(a) not more than 12 months before lodging the relevant application to migrate; or</p> <p>(b) at the time of the processing of the relevant application to migrate</p>	10
6311	<p>The applicant provides evidence of having achieved an IELTS average band score of at least 4.5 based on the 4 test components of speaking, reading, writing and listening in a test conducted:</p>	10

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	
6311A	The applicant provides evidence that he or she has successfully completed, in Australia, at least 1 year of full-time study or equivalent part-time study towards a degree, higher degree, diploma or associate diploma at an institution or institutions where all the instruction was conducted in English	10
6312	The applicant provides evidence of having completed all years of primary education and at least 2 years of secondary education at educational institutions in which all instruction was conducted in English	5
6313	The applicant provides evidence of having completed at least 3 years of secondary education at educational institutions in which all instruction was conducted in English	5
6314	<p>The applicant provides evidence of having achieved an ACCESS test score of at least 12 based on the 4 test components of listening, reading, writing and oral interaction in a test conducted:</p> <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	5
6315	<p>The applicant provides evidence of having achieved an IELTS average band score of at least 4.0 based on the 4 test components of speaking, reading, writing and listening in a test conducted:</p> <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	5

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6316	The applicant satisfies the Minister that the applicant is fluent in 2 languages other than English	5
<p><i>Note</i> In the determination of the points score of an applicant for a Subclass 105 (Skilled — Australian Linked) or Subclass 126 (Independent) visa, 5 points must be added if the applicant holds an award (being an Australian degree, higher degree, diploma or trade certificate) obtained after a period of at least 1 year of full-time study in Australia for that award: see paragraph 2.26 (3) (d).</p>		

Part 4 Relationship qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6401	The sponsor is a son or daughter or a stepson or stepdaughter of the applicant	15
6402	The sponsor is a brother or sister, an adoptive brother or sister, a stepbrother or stepsister, or a parent of the applicant	10
6403	The sponsor is an aunt or uncle, an adoptive aunt or uncle or a step-aunt or step-uncle of the applicant	5

Part 5 Citizenship qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6501	The sponsor has been an Australian citizen for not less than 5 years at the time Immigration receives the relevant sponsorship	10
6502	The sponsor has been an Australian citizen for less than 5 years at the time Immigration receives the relevant sponsorship	5

Part 6 Settlement of sponsor qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6601	<p>The sponsor:</p> <ul style="list-style-type: none">(a) has been resident in Australia (except for short absences for the purposes of recreation or business) throughout the period of 2 years immediately before Immigration receives the relevant sponsorship; and(b) is not, at the time Immigration receives the relevant sponsorship, receiving a benefit under the <i>Student and Youth Assistance Act 1973</i> or any form of Australian social security benefit, allowance or pension, other than:<ul style="list-style-type: none">(i) an age pension under the <i>Social Security Act 1991</i>; or(ii) a family allowance, or family allowance supplement, under that Act; or(iii) a pension under the <i>Seamen's War Pensions and Allowances Act 1940</i> or the <i>Veterans' Entitlements Act 1986</i>; and(c) is either:<ul style="list-style-type: none">(i) a person who:<ul style="list-style-type: none">(A) is financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (b) (i) or (iii); and(B) has not received, in respect of a period or periods amounting to more than 4 weeks during that period of 2 years, a job search allowance, a newstart allowance or a special benefit under the <i>Social Security Act 1991</i>; or	10

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	(ii) a person who: (A) is not financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (b) (i) or (iii); and (B) does not have a spouse or de facto partner who has received, in respect of a period or periods amounting to more than 4 weeks during that period of 2 years, a job search allowance, a newstart allowance or a special benefit under the <i>Social Security Act 1991</i> .	

Part 7 Location of sponsor qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6701	Throughout the period of 2 years immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of recreation or business), the sponsor has been resident in one or more of the areas specified by an instrument in writing for this item as designated areas for the purpose of this item	5

Schedule 6A General points test — qualifications and points

(regulations 2.26A and 2.27A)

Part 1 Skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A11	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 60 points are available	60
6A12	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 50 points are available	50
6A13	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 40 points are available	40

Part 2 Age qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A21	The applicant is aged not less than 18 years and under 30 years at the time of application	30
6A22	The applicant is aged not less than 30 years and under 35 years at the time of application	25
6A23	The applicant is aged not less than 35 years and under 40 years at the time of application	20
6A24	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Part 3 Language skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A31	The applicant provides evidence of having achieved an IELTS test score of at least 6 for each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none">(a) not more than 12 months before the day on which the application was made; or(b) during processing of the application	20
6A32	The applicant provides evidence of having passed the Occupational English Test: <ul style="list-style-type: none">(a) not more than 12 months before the day on which the application was lodged; or(b) during processing of the application	20
6A33	The applicant provides evidence of having achieved an IELTS test score of at least 5 on each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none">(a) not more than 12 months before the day on which the application was made; or(b) during processing of the application	15

Part 4 Employment experience qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A41	For a period of, or for periods totalling, at least 36 months in the 48 months immediately before the day on which the application was made, the applicant has been employed in the nominated skilled occupation, or a closely related skilled occupation, that is specified by an instrument in writing for this item as a skilled occupation for which 60 points are available	10

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A42	The applicant has been employed in a skilled occupation for a period of, or for periods totalling, at least 36 months in the 48 months immediately before the day on which the application was made	5

Part 5 Spouse or de facto partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A51	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none"> (a) is, at the time of application, under 45 years of age; and (b) has vocational English; and (c) has nominated a skilled occupation in his or her application; and (d) has been assessed by the relevant assessing authority for a skilled occupation as having suitable skills for that occupation; and (e) unless: <ul style="list-style-type: none"> (i) each of the following sub-subparagraphs applies in relation to the spouse or de facto partner: <ul style="list-style-type: none"> (A) the spouse or de facto partner has, in the 6 months immediately before the day on which the application is made, met the requirements for award of 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 spouse or 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>de facto partner was present in Australia;</p> <p>(B) all instruction for that degree, diploma or trade qualification was conducted in English;</p> <p>(C) the degree, diploma or trade qualification mentioned in sub-subparagraphs (A) and (B) is relevant to the skilled occupation nominated by the spouse or de facto partner in his or her application; or</p> <p>(ii) each of the following sub-subparagraphs applies in relation to the spouse or de facto partner:</p> <p>(A) the spouse or de facto partner has, in the 6 months immediately before the day on which the application is made, met the requirements for award of 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 spouse or de facto partner was present in Australia;</p> <p>(B) before meeting the requirements for award of that degree, diploma or trade qualification, the spouse or de facto partner met the requirements for award of at least 1 other degree, diploma or trade qualification (other than a degree,</p>	

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>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 spouse or de facto partner was present in Australia;</p> <p>(C) the spouse or de facto partner met the requirements for award of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the spouse or de facto partner was present in Australia;</p> <p>(D) the spouse or de facto partner met the requirements for award of each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) at the institution at which it was commenced;</p> <p>(E) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) is relevant to the skilled occupation nominated by the spouse or de facto partner in his or her application;</p> <p>(F) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English;</p>	

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>the spouse or de facto partner has, at the time of application, been employed in a skilled occupation for a period of, or for periods totalling, at least:</p> <p>(iii) if 60 points are specified by an instrument in writing for this subparagraph as available for the nominated skilled occupation — 12 months in the 18 months immediately before that day; or</p> <p>(iv) if 40 or 50 points are specified by an instrument in writing for this subparagraph as available for the nominated skilled occupation — 24 months in the 36 months immediately before that day; and</p> <p>(f) is not an Australian permanent resident or an Australian citizen.</p>	

Part 6 Australian educational qualification

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A61	The applicant has met the requirements for award of a doctorate by an Australian educational institution as a result of a course of study of at least 2 years in Australia	15
6A61A	<p>The applicant has, since meeting the requirements for award of an undergraduate degree by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English, met the requirements for award of:</p> <p>(a) a masters degree; or</p>	10

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A63	<p>(b) an honours degree at or above the level of second class division 1 honours;</p> <p>by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English</p> <p>Each of the following paragraphs applies to the applicant:</p>	5
6A64	<p>(a) the applicant has met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) by an Australian educational institution as a result of a course of study of at least 2 years in Australia;</p> <p>(b) all instruction for that degree, diploma or trade qualification was conducted in English</p> <p>Each of the following paragraphs applies in relation to the applicant:</p> <p>(a) the applicant has met the requirements for award of 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;</p> <p>(b) before meeting the requirements for award of that degree, diploma or trade qualification, the applicant met the requirements for award of a degree 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;</p>	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(c) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (b) 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;</p> <p>(d) all instruction for each of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (b) was conducted in English</p>	

Part 7 Skills targeting qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A71	<p>The applicant:</p> <p>(a) has nominated a migration occupation in demand in his or her application; and</p> <p>(b) has an offer of full-time employment in that occupation, or a closely related skilled occupation, in an organisation that had at least 10 full-time employees at all times in the 24 months immediately before the day on which the application was made</p>	20
6A72	The applicant has nominated a migration occupation in demand in his or her application	15

Part 8 Bonus points qualification

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A81	<p>Application for:</p> <ul style="list-style-type: none"> • Skilled — Australian-sponsored (Migrant) (Class BQ) visa • Skilled — New Zealand Citizen (Residence) (Class DB) visa • Skilled — Independent Overseas Student (Residence) (Class DD) visa • Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa <p>The applicant:</p> <ul style="list-style-type: none"> (a) has deposited at least AUD100 000 in a designated security for a term of not less than 12 months; or (b) has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application was made while holding a visa authorising him or her to work; or (c) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or (d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters 	5
6A82	<p>Application for:</p> <ul style="list-style-type: none"> • Skilled — Independent (Migrant) (Class BN) visa • Skilled — Independent Regional (Provisional) (Class UX) visa <p>The applicant:</p>	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (a) has indicated in the application that the applicant is able and willing to deposit at least AUD100 000 in a designated security for a term of not less than 12 months; or (b) has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application was made while holding a visa authorising him or her to work; or (c) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or (d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters 	

Part 9 Sponsorship qualification — general

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A91	<p>The applicant is sponsored by a person to whom the applicant, or the applicant’s spouse or de facto partner, if the spouse or de facto partner is an applicant for the same subclass of visa, has 1 of the following relationships:</p> <ul style="list-style-type: none"> (a) parent; (b) brother, sister, adoptive brother, adoptive sister, step-brother or step-sister; (c) aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; (d) child or step-child who is not a dependent child of the applicant or the applicant’s spouse or de facto partner; 	15

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	(e) niece, nephew, adoptive niece, adoptive nephew, step-niece or step-nephew	

Part 9A Sponsorship qualification for Skilled — Independent Regional (Provisional) (Class UX) visa

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A9A1	The applicant: <ul style="list-style-type: none"> (a) has applied for a Skilled — Independent Regional (Provisional) (Class UX) visa; and (b) is sponsored by a State or Territory government agency for the purposes of that visa application 	10

Part 10 Additional points for regional Australia and low-population growth metropolitan areas

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A1001	Each of the following paragraphs applies in relation to the applicant: <ul style="list-style-type: none"> (a) the applicant has met the requirements for award of 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 specified in an instrument in writing for this item as a result of a course of study of at least 2 years at a campus of the institution; 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (b) the location of the campus is specified in that instrument; (c) the applicant lived in a part of Australia the postcode of which is specified in that instrument while the applicant undertook the course of study; (d) the study undertaken did not constitute distance education 	
6A1002	<p>Each of the following paragraphs applies in relation to the applicant:</p> <ul style="list-style-type: none"> (a) the applicant has met the requirements for award of 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 specified in an instrument in writing for this item as a result of a course of study of less than 2 years at a campus of that institution while the applicant was present in Australia; (b) the location of the campus is specified in that instrument; (c) before meeting the requirements for award of that degree, diploma or trade qualification, the applicant met the requirements for award of 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; 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none">(d) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (c) 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;(e) all instruction for each of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (c) was conducted in English;(f) the applicant lived in a part of Australia the postcode of which is specified in that instrument while the applicant undertook the 2 years of study;(g) the study undertaken did not constitute distance education	

Part 11 Application of Schedule 6A from 1 July 2003

6A1101 Paragraph 6A51 (e), as in force immediately before 1 July 2003, continues to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;

- (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
- (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (c) whose application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003.

Note Item 6A51 was amended with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1102 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
 - (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
 - (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003; and
 - (d) item 6A61, as in force immediately before 1 July 2003, would enable the person to be credited with more points than would be credited under item 6A61, as in force on or after 1 July 2003;
- item 6A61, as in force immediately before 1 July 2003, applies in relation to the person.

Note Item 6A61 was omitted, and a new item 6A61 substituted, with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1103 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003; and
- (d) item 6A61, as in force on or after 1 July 2003, would enable the person to be credited with the same points as, or more points than, would be credited under item 6A61, as in force immediately before 1 July 2003;

item 6A61, as in force on or after 1 July 2003, applies in relation to the person.

Note Item 6A61 was omitted, and a new item 6A61 substituted, with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1104 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003;

item 6A62, as in force immediately before 1 July 2003, applies in relation to the person, and items 6A63 and 6A64 do not apply to the person.

Note Item 6A62 was omitted, and new items 6A63 and 6A64 inserted, with effect from 1 July 2003. The items have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new item.

Schedule 6B General points test — qualifications and points (General Skilled Migration visas)

(regulation 2.26AA)

Part 6B.1 Occupational qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B11	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 60 points are available <i>Note</i> <i>skilled occupation</i> is defined in regulation 1.03	60
6B12	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 50 points are available	50
6B13	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 40 points are available	40

Part 6B.2 Age qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B21	The applicant is aged not less than 18 years and under 30 years at the time of application	30
6B22	The applicant is aged not less than 30 years and under 35 years at the time of application	25
6B23	The applicant is aged not less than 35 years and under 40 years at the time of application	20
6B24	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.3	English language qualifications

Part 6B.3 English language qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B31	The applicant has proficient English	25
6B32	The applicant has competent English	15
6B33	The applicant: <ul style="list-style-type: none"> (a) has applied for: <ul style="list-style-type: none"> (i) a Subclass 475 (Skilled — Regional Sponsored) visa; or (ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and (b) has concessional competent English 	15

Part 6B.4 Specific employment qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B41	The applicant nominated a skilled occupation for which 60 points are available and has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 36 months in the 48 months immediately before the day on which the application was made	10
6B42	The applicant has been employed in a skilled occupation for a period totalling, at least 36 months in the 48 months immediately before the day on which the application was made	5

Part 6B.5 Australian employment qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B51	The applicant has been employed in Australia, in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made	10
6B52	The applicant has completed a professional year in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made	10

Part 6B.6 Australian educational qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B61	The applicant has met the requirements for award of a doctorate by an Australian educational institution as a result of a course of study of at least 2 academic years: (a) undertaken while the applicant was present in Australia; and (b) for which all instruction was conducted in English	25
6B62	The applicant has undertaken study for a period totalling at least 3 academic years, while being in Australia, during which the applicant:	15

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.6	Australian educational qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (a) met the requirements for award of a masters degree or an honours degree (Second Class (Division 1) level or above), by an Australian educational institution as a result of a course of study of at least 1 academic year; and (b) met the requirements for award of an undergraduate degree, which is closely related to the masters degree or honours degree mentioned in paragraph (a), by an Australian educational institution as a result of a course of study of at least 1 academic year: <ul style="list-style-type: none"> (i) undertaken while the applicant was present in Australia; and (ii) for which all instruction was conducted in English 	
6B63	<p>The applicant has met the requirements for award of an undergraduate degree with honours (Second Class (Division 1) or above) by an Australian educational institution as a result of a course of study of at least 3 academic years:</p> <ul style="list-style-type: none"> (a) undertaken while the applicant was present in Australia; and (b) for which all instruction was conducted in English 	15
6B64	<p>The applicant satisfies the Australian study requirement</p> <p><i>Note 1 Academic year</i> is defined in regulation 1.03</p> <p><i>Note 2</i> Regulation 1.03 provides that <i>Australian study requirement</i> has the meaning set out in regulation 1.15F</p>	5

Part 6B.7 Occupation in demand qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B71	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has nominated a migration occupation in demand in his or her application; and (b) has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made; and (c) has an offer of full-time employment in that occupation in an organisation that had at least 10 full-time employees at all times in the 24 months immediately before the day on which the application was made 	20
6B72	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has nominated a migration occupation in demand in his or her application; and (b) has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made 	15

Part 6B.8 Designated language qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B81	<p>The applicant:</p> <ul style="list-style-type: none"> (a) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or 	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.9	Study in regional Australia or a low-population growth metropolitan area qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	(b) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters	
	<i>Note</i> <i>designated language</i> is defined in regulation 1.03	

Part 6B.9 Study in regional Australia or a low-population growth metropolitan area qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B91	Each of the following paragraphs applies in relation to the applicant: <ul style="list-style-type: none"> (a) the applicant meets the Australian study requirement; (b) the location of the campus or campuses at which that study was undertaken is specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A; (c) while the applicant undertook the course of study the applicant lived in a part of Australia the postcode of which is specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A; (d) none of the study undertaken constituted distance education 	5

Part 6B.10 Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B101	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none">(a) is an applicant for:<ul style="list-style-type: none">(i) a Subclass 175 (Skilled — Independent) visa; or(ii) a Subclass 176 (Skilled — Sponsored) visa; or(iii) a Subclass 885 (Skilled — Independent) visa; or(ii) a Subclass 886 (Skilled — Sponsored) visa; and(b) is an applicant for the same subclass of visa as the applicant; and(c) is not an Australian permanent resident or an Australian citizen; and(d) is, at the time of application, under 45 years of age; and(e) has nominated a skilled occupation in his or her application; and(f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and(g) has competent English; and(h) either:<ul style="list-style-type: none">(i) has met the Australian study requirement:(A) in the period of 6 months ending immediately before the day the application was made; and	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.10	Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or</p> <p>(ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day</p>	
6B102	<p>The spouse or de facto partner of the applicant:</p> <p>(a) is an applicant for:</p> <p>(i) a Subclass 475 (Skilled — Regional Sponsored) visa; or</p> <p>(ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and</p> <p>(b) is an applicant for the same subclass of visa as the applicant; and</p> <p>(c) is not an Australian permanent resident or an Australian citizen; and</p> <p>(d) is, at the time of application, under 45 years of age; and</p> <p>(e) has nominated a skilled occupation in his or her application; and</p> <p>(f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and</p> <p>(g) has concessional competent English; and</p> <p>(h) either:</p> <p>(i) has met the Australian study requirement:</p> <p>(A) in the period of 6 months ending immediately before the day the application was made; and</p>	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or</p> <p>(ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day</p>	

Part 6B.11 State or Territory nomination qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B111	<p>The applicant:</p> <p>(a) has applied for 1 of the following visas:</p> <p>(i) a Subclass 176 (Skilled — Sponsored) visa;</p> <p>(ii) a Subclass 475 (Skilled — Regional Sponsored) visa;</p> <p>(iii) a Subclass 487 (Skilled — Regional Sponsored) visa;</p> <p>(iv) a Subclass 886 (Skilled — Sponsored) visa; and</p> <p>(b) has been nominated by a State or Territory government agency for the purposes of the visa application;</p> <p>and the Minister has accepted the nomination</p>	10

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.12	Designated area sponsorship qualifications

Part 6B.12 Designated area sponsorship qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B121	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has applied for 1 of the following visas: <ul style="list-style-type: none"> (i) a Subclass 475 (Skilled — Regional Sponsored) visa; (ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and (b) has been sponsored by a relative; <p>and the Minister has accepted the sponsorship</p>	25

Schedule 7 Business skills points test — attributes and points

(regulation 1.03)

Part 1 Business attributes

Column 1 Item	Column 2 Attributes	Column 3 Number of points
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Division 1.4 Established business in Australia (Subclass 845 visas)

7170	<p>In the period of 12 months ending immediately before the application is made:</p> <p>(a) the total number of hours of employment provided by the main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) was at least equivalent to the total number of hours that would have been worked by 3 full-time employees over that period of 12 months, each of those hours having been worked by an employee, or employees, who:</p> <p>(i) were not the applicant or a member of the family unit of the applicant; and</p> <p>(ii) were Australian citizens, Australian permanent residents or eligible New Zealand citizens; and</p> <p>(b) the main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) either:</p> <p>(i) had a turnover of not less than AUD200 000; or</p> <p>(ii) exported goods or services of a value of not less than AUD100 000</p>	60
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Column 1 Item	Column 2 Attributes	Column 3 Number of points
Division 1.5	State/Territory sponsored established main business(es) in designated area(s) (Subclass 846 visas)	
7180	<p>In the period of 2 years ending immediately before the application is made, the total number of hours of employment provided by the established main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) in a designated area (or areas) was at least equivalent to the total number of hours that would have been worked by 3 full-time employees over that period of 2 years, each of those hours having been worked by an employee, or employees, who:</p> <ul style="list-style-type: none"> (a) were not the applicant or a member of the family unit of the applicant; and (b) were Australian citizens, Australian permanent residents or eligible New Zealand citizens 	60
7181	<p>In the period of 2 years ending immediately before the application is made, the total number of hours of employment provided by the established main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) in a designated area (or areas) was at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 2 years, each of those hours having been worked by an employee, or employees, who:</p> <ul style="list-style-type: none"> (a) were not the applicant or a member of the family unit of the applicant; and (b) were Australian citizens, Australian permanent residents or eligible New Zealand citizens 	40

Part 2 Age of applicant at time of application

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7201	Not less than 30 years but less than 45 years	30
7202	Not less than 45 years but less than 50 years	25
7203	Not less than 20 years but less than 30 years	20
7204	Not less than 50 years but less than 55 years	10
7205	Less than 20 years or 55 years or more	0

Part 3 Language ability of applicant

Column 1 Item	Column 2 Attributes	Column 3 Number of points
Division 3.1	Language ability of applicant (Subclasses 845 and 846)	
7301	Better than functional ability in English	30
7302	Functional ability in English	20
7303	Bilingual in languages other than English	10
7304	Limited ability in English	10
7305	No ability in English	0

Part 4 Net assets of applicant or of applicant and applicant's spouse or de facto partner together

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7401	Not less than the equivalent of AUD2,500,000	15
7402	Not less than the equivalent of AUD1,500,000 but less than the equivalent of AUD2,500,000	10

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7403	Not less than the equivalent of AUD500,000 but less than the equivalent of AUD1,500,000	5
7404	Less than the equivalent of AUD500,000	0

Part 5 Sponsorship

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7501	Sponsorship by the appropriate regional authority	15

Schedule 8 Visa conditions

(subregulations 2.05 (1) and (2))

Note 1 Whether a visa of a particular class may be made subject to any of these conditions depends on the relevant provision in Schedule 2.

Note 2 As to cancellation for breaches of conditions, see the Act, ss. 41 and 116 to 119.

- 8101 The holder must not engage in work in Australia.
- 8102 The holder must not engage in work in Australia (other than in relation to the holder's course of study or training).
- 8103 The holder must not receive salary in Australia without the permission in writing of the Secretary.
- 8104 (1) Subject to subclauses (2) to (6), the holder must not engage in work for more than 20 hours a week while the holder is in Australia.
 - (2) If the holder is a member of the family unit of a person who satisfies the primary criteria for the grant of a student visa, the holder must not engage in work in Australia until the person who satisfies the primary criteria has commenced a course of study.
 - (3) If the holder is able to engage in work in accordance with subclause (2), the holder must not engage in work for more than 20 hours a week while the holder is in Australia unless subclause (4) or (5) applies.
 - (4) Subclause (3) does not apply if:
 - (a) the visa for which the primary criteria were satisfied is:
 - (i) a Subclass 573 (Higher Education Sector) visa; or
 - (ii) a Subclass 574 (Postgraduate Research Sector) visa; and
 - (b) the course of study is a course for the award of a masters or doctorate degree that is registered on the Commonwealth Register of Institutions and Courses of Overseas Students.

(5) Subclause (3) does not apply if:

- (a) the visa for which the primary criteria were satisfied is a Subclass 576 (AusAID or Defence Sector) visa; and
- (b) the course of study is a course for the award of a masters or doctorate degree.

(6) In this clause:

week means the period of 7 days commencing on a Monday.

8105 (1A) The holder must not engage in any work in Australia before the holder's course of study commences.

(1) Subject to subclause (2), the holder must not engage in work in Australia for more than 20 hours a week during any week when the holder's course of study or training is in session.

(2) Subclause (1) does not apply to work that was specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students.

(3) In this clause:

week means the period of 7 days commencing on a Monday.

8106 The holder must engage in work in Australia only if the work is relevant to the conduct of the business, or performance of the tasks, specified in the visa application.

8107 (1) If the visa is not a visa mentioned in subclause (3) or (4), and was granted to enable the holder to be employed in Australia, the holder must not:

- (a) cease to be employed by the employer in relation to which the visa was granted; or
- (b) work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; or
- (c) engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted.

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- (2) If the visa is not a visa mentioned in subclause (3) or (4), and subclause (1) does not apply, the holder must not:
 - (a) cease to undertake the activity in relation to which the visa was granted; or
 - (b) engage in an activity inconsistent with the activity in relation to which the visa was granted; or
 - (c) engage in work for another person or on the holder's own account inconsistent with the activity in relation to which the visa was granted.

 - (3) If the visa is a Subclass 457 (Business (Long Stay)) visa that was granted on the basis that the holder met the requirements of subclause 457.223 (2) or (4):
 - (a) the holder must:
 - (i) work only in the occupation listed in the most recently approved nomination for the holder; and
 - (ii) unless the circumstances in subclause (3A) apply — work only for:
 - (A) the standard business sponsor, former standard business sponsor, party to a labour agreement or former party to a labour agreement (the *sponsor*) who nominated the holder in the most recently approved nomination; or
 - (B) if the sponsor is a standard business sponsor or former standard business sponsor who lawfully operates a business in Australia — an associated entity of the sponsor; and
 - (b) if the holder ceases employment — the period during which the holder ceases employment must not exceed 28 consecutive days.

 - (3A) For subparagraph (3) (a) (ii), the circumstances are that:
 - (a) if the nomination was made before 1 July 2010 — the holder's occupation is specified in an instrument in writing for subparagraph 2.72 (10) (d) (ii) or (iii); or
 - (aa) if the nomination is made on or after 1 July 2010 — the holder's occupation is specified in an instrument in writing for subparagraph 2.72 (10) (e) (ii) or (iii); or

(b) the holder is continuing to work for the sponsor, or the associated entity of the sponsor, for the purpose of fulfilling a requirement under a law relating to industrial relations and relating to the giving of notice.

(3B) If the visa is a Subclass 457 (Business (Long Stay)) visa that was granted on the basis that the holder met the requirements of subclause 457.223 (8), (9) or (10):

(a) the holder must work only in the occupation or position in relation to which the visa was granted; and

(b) if the holder ceases employment — the period during which the holder ceases employment must not exceed 28 consecutive days.

(4) If:

(a) the visa is:

(i) a Subclass 411 (Exchange) visa; or

(ii) a Subclass 419 (Visiting Academic) visa; or

(iii) a Subclass 420 (Entertainment) visa; or

(iv) a Subclass 421 (Sport) visa; or

(v) a Subclass 423 (Media and Film Staff) visa; or

(vi) a Subclass 427 (Domestic Worker (Temporary) — Executive) visa; or

(vii) a Subclass 428 (Religious Worker) visa; or

(viii) a Subclass 442 (Occupational Trainee) visa; and

(b) in the case of a holder of a Subclass 442 (Occupational Trainee) visa — the occupational training is not provided to the holder by the Commonwealth;

the holder must not:

(c) cease to engage in the most recently nominated occupation, program or activity in relation to which the holder is identified; or

(d) engage in work or an activity that is inconsistent with the most recently nominated occupation, program or activity in relation to which the holder is identified; or

-
- (e) engage in work or an activity for an employer (within the meaning of subregulation 2.72A (8)) other than the employer identified in accordance with paragraph 2.72A (7) (a) in the most recent nomination in which the holder is identified.
- 8108 The holder must not be employed in Australia by any 1 employer for more than 3 months, without the prior permission in writing of the Secretary.
- 8109 The holder must not change details of times and places of engagements specified in the application to be undertaken in Australia during the visa period, without the prior permission in writing of the Secretary.
- 8110 The holder:
- (a) must not engage in work in Australia except in the household of the employer in relation to whom the visa was granted; and
 - (b) must not work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; and
 - (c) must not engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted; and
 - (d) must not cease to be employed by the employer in relation to which the visa was granted, unless paragraph (e) applies; and
 - (e) except with the written permission of the Foreign Minister, must not remain in Australia after the permanent departure of that employer.
- 8111 The holder must not:
- (a) perform work in Australia except in the household of the employer who is the holder's sponsor in relation to the visa; or
 - (b) remain in Australia after the permanent departure of that employer.

- 8112 The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident.
- 8113 The holder must not work in Australia otherwise than as a member of the crew of a non-military ship.
- 8114 The holder must not work in Australia otherwise than as a member of the crew of a superyacht.
- 8201 For a visa other than:
- (a) a Subclass 675 (Medical Treatment (Short Stay)) visa in relation to which the holder:
 - (i) is under 18; and
 - (ii) has experienced a change in circumstances while in Australia; and
 - (iii) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances; or
 - (b) a Subclass 685 (Medical Treatment (Long Stay)) visa in relation to which the holder:
 - (i) is under 18; and
 - (ii) has experienced a change in circumstances while in Australia; and
 - (iii) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances;
- while in Australia the holder must not engage, for more than 3 months, in any studies or training.
- 8202 (1) The holder (other than the holder of a Subclass 560 (Student) visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa) must meet the requirements of subclauses (2) and (3).
- (2) A holder meets the requirements of this subclause if:
- (a) the holder is enrolled in a registered course; or

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- (b) in the case of the holder of a Subclass 560 or 571 (Schools Sector) visa who is a secondary exchange student — the holder is enrolled in a full-time course of study or training.
- (3) A holder meets the requirements of this subclause if neither of the following applies:
- (a) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course progress for:
 - (i) section 19 of the *Education Services for Overseas Students Act 2000*; and
 - (ii) standard 10 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007;
 - (b) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course attendance for:
 - (i) section 19 of the *Education Services for Overseas Students Act 2000*; and
 - (ii) standard 11 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.
- (4) In the case of the holder of a Subclass 560 visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa — the holder is enrolled in a full-time course of study or training.

- 8203 The holder must not change his or her course of study, or thesis or research topic, unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8204 The holder must not undertake or change a course of study or research, or thesis or research topic, for:
 - (a) a graduate certificate, a graduate diploma, a master's degree or a doctorate; or

- (b) any bridging course required as a prerequisite to a course of study or research for a master's degree or a doctorate; unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8207 The holder must not engage in any studies or training in Australia.
- 8301 After entry to Australia, the holder must satisfy relevant public interest criteria before the visa ceases.
- 8302 After entry to Australia, all relevant members of the family unit must satisfy the relevant public interest criteria before the visa ceases.
- 8303 The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community.
- 8401 The holder must report:
(a) at a time or times; and
(b) at a place;
specified by the Minister for the purpose.
- 8402 The holder must report:
(a) within 5 working days of grant, to an office of Immigration; and
(b) to that office on the first working day of every week after reporting under paragraph (a).
- 8403 The holder must visit an office of Immigration specified by the Minister for the purpose, within the time specified by the Minister for the purpose, to have evidence of the visa placed in the holder's passport.
- 8501 The holder must maintain adequate arrangements for health insurance while the holder is in Australia.
- 8502 The holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa.

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- 8503 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa, while the holder remains in Australia.
- 8504 The holder must enter Australia as the holder of the visa to which the condition applies before a date specified by the Minister.
- 8505 The holder must continue to live at the address specified by the holder before grant of the visa.
- 8506 The holder must notify Immigration at least 2 working days in advance of any change in the holder's address.
- 8507 The holder must, within the period specified by the Minister for the purpose:
- (a) pay; or
 - (b) make an arrangement that is satisfactory to the Minister to pay;
- the costs (within the meaning of Division 10 of Part 2 of the Act) of the holder's detention.
- 8508 The holder must make a valid application for a visa of a class that can be granted in Australia, within the time specified by the Minister for the purpose.
- Note* For the meaning of *valid application* see s 46 of the Act. Broadly, a valid application is one that is formally in order for consideration, not necessarily one that can be granted.
- 8509 Within 5 working days after the date of grant, the holder must:
- (a) make a valid application for a substantive visa; or
 - (b) show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8510 Within the time specified by the Minister for the purpose, the holder must, either:
- (a) show an officer a passport that is in force; or
 - (b) make an arrangement satisfactory to the Minister to obtain a passport.

- 8511 Within the time specified by the Minister for the purpose, the holder must, show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8512 The holder must leave Australia by the date specified by the Minister for the purpose.
- 8513 The holder must notify Immigration of his or her residential address within 5 working days of grant.
- 8514 During the visa period of the visa, there must be no material change in the circumstances on the basis of which it was granted.
- 8515 The holder of the visa must not marry or enter into a de facto relationship before entering Australia.
- 8516 The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.
- 8517 The holder must maintain adequate arrangements for the education of any school-age dependant of the holder who is in Australia for more than 3 months as the holder of a Subclass 560, 570, 571, 572, 573, 574, 575 or 576 visa (as a person who has satisfied the secondary criteria) or Subclass 563 visa.
- 8518 Adequate arrangements must be maintained for the education of the holder while he or she is in Australia.
- 8519 The holder must enter into the marriage in relation to which the visa was granted within the visa period of the visa.
- 8520 The relevant person who holds a Subclass 300 visa on the basis of having satisfied the primary criteria must enter into the marriage in relation to which that visa was granted within the visa period of that visa.
- 8522 The holder must leave Australia not later than the time of departure of the person:
- (a) who has satisfied the primary criteria; and
 - (b) of whose family unit the holder is a member.

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- 8523 Each person who:
- (a) is a member of the family unit of the holder (being a spouse or de facto partner of the holder or an unmarried child of the holder who has not turned 18); and
 - (b) has satisfied the secondary criteria; and
 - (c) holds a student visa because of paragraphs (a) and (b);
- must leave Australia not later than the time of departure of the holder.
- 8524 The holder must satisfy the remaining criteria (within the meaning of Part 303 of Schedule 2) on or before a date specified by the Minister.
- 8525 The holder must leave Australia by a specified means of transport on a specified day or within a specified period.
- 8526 The holder must notify the Secretary in writing, not earlier than 7 days before the day the visa ceases to be in effect, and not later than that day, of the holder's place of residence in Australia by posting the notification to the Central Office of Immigration in the Australian Capital Territory.
- 8527 The holder must be free from tuberculosis at the time of travel to, and entry into, Australia.
- 8528 The holder must not have one or more criminal convictions, for which the sentence or sentences (whether served or not) are for a total period of 12 months duration or more, at the time of travel to, and entry into, Australia.
- 8529 The holder must, after entering Australia:
- (a) undergo a medical examination carried out by:
 - (i) a Commonwealth Medical Officer; or
 - (ii) a medical practitioner approved by the Minister; or
 - (iii) a medical practitioner employed by an organisation approved by the Minister; and
 - (b) undergo a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia, unless the holder:

- (i) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
 - (ii) is a person:
 - (A) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
 - (B) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (C) 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
 - (D) whom the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 8530 The holder must not discontinue, or deviate from, the tour arrangements approved, in writing, by the Minister under subparagraph 676.221 (2) (d) (ii).
- 8531 The holder must not remain in Australia after the end of the period of stay permitted by the visa.
- 8532 If the holder has not turned 18 and is not an AusAID student or a Defence student:
- (a) the holder must stay in Australia with a person who is:
 - (i) a parent of the holder or a person who has custody of the holder; or
 - (ii) a relative of the holder who:
 - (A) is nominated by a parent of the holder or a person who has custody of the holder; and
 - (B) has turned 21; and
 - (C) is of good character; or
 - (b) the arrangements for the holder's accommodation, support and general welfare must be approved by the education provider for the course to which the holder's visa relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence.

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- 8533 The holder must:
- (a) in the case of a holder who was outside Australia when the visa was granted, notify the education provider of the holder's residential address in Australia within 7 days after arriving in Australia; and
 - (b) in all cases:
 - (i) notify the education provider of any change in the holder's residential address in Australia within 7 days after the change occurs; and
 - (ii) notify his or her current education provider of a change of education provider within 7 days after the holder receives:
 - (A) a certificate of enrolment from the new education provider; or
 - (B) if no certificate of enrolment is required to be sent, or if a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment — evidence that the applicant has been enrolled by the new education provider.
- 8534 The holder will not be entitled to be granted a substantive visa, other than:
- (a) a protection visa; or
 - (b) a student visa the application for which must be made on form 157P or 157P (Internet); or
 - (c) a Subclass 497 (Graduate — Skilled) visa; or
 - (d) a Subclass 580 (Student Guardian) visa;
- while the holder remains in Australia.
- 8535 The holder will not be entitled to be granted a substantive visa, other than:
- (a) a protection visa; or
 - (b) a student visa the application for which must be made on form 157P or 157P (Internet); or

- (c) a Student (Temporary) (Class TU) visa that is granted to an applicant who satisfies the criterion in clause 570.230, 571.229, 572.229, 573.229, 574.229, 575.229, 576.227 or 580.229 of Schedule 2;
while the holder remains in Australia.
- 8536 The holder must not discontinue, or deviate from, the professional development program in relation to which the visa was granted.
- 8537 (1) While the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder is in Australia, the holder must reside in Australia.
- (2) While the holder is in Australia, the holder must:
- (a) stay with the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder; and
- (b) provide appropriate accommodation and support for the nominating student; and
- (c) provide for the general welfare of the nominating student.
- 8538 If the holder leaves Australia without the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder, the holder must first give to the Minister evidence that:
- (a) there are compelling or compassionate reasons for doing so; and
- (b) the holder has made alternative arrangements for the accommodation, support and general welfare of the nominating student until the holder's return to Australia; and
- (c) if the nominating student has not turned 18, the alternative arrangements are approved by the education provider for the course to which the nominating student's visa relates.
- 8539 While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A, as in force:
- (a) when the visa was granted; or
- (b) if the holder has held more than 1 visa that is subject to this condition — when the first of those visas was granted.

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- 8540 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa or a Subclass 462 (Work and Holiday) visa, while the holder remains in Australia.
- 8541 The holder:
- (a) must do everything possible to facilitate his or her removal from Australia; and
 - (b) must not attempt to obstruct efforts to arrange and effect his or her removal from Australia.
- 8542 The holder must make himself or herself available for removal from Australia in accordance with instructions given to the holder by Immigration for the purpose of that removal.
- 8543 The holder must attend at a place, date and time specified by Immigration in order to facilitate efforts to arrange and effect his or her removal from Australia.
- 8547 The holder must not be employed by any 1 employer for more than 6 months, without the prior permission in writing of the Secretary.
- 8548 The holder must not engage in any studies or training in Australia for more than 4 months.
- 8549 While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 6701 of Schedule 6, as in force:
- (a) when the visa was granted; or
 - (b) if the holder has held more than 1 visa that is subject to this condition — when the first of those visas was granted.

Schedule 9 Special entry and clearance arrangements

(regulations 3.01, 3.03, 3.06 and 3.06A)

Part 1 Persons to whom special arrangements apply under section 166 of the Act

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
1	Members of the Royal Family	Passport	Yes
2	Members of the Royal party	Passport	Yes
4	SOFA forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
5	SOFA forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
6	SOFA forces civilian component members who arrive at an airport that is not a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	No
7	SOFA forces civilian component members who arrive at a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	Yes

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
8	Asia-Pacific forces members arriving at an airport that is not a proclaimed port	Military identity documents and movement orders	No
9	Asia-Pacific forces members arriving at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
10	Commonwealth forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
11	Commonwealth forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
12	Foreign armed forces dependants who arrive at an airport that is not a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	No

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
13	Foreign armed forces dependants who arrive at an airport that is a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	Yes
14	Airline crew members	Passport and either: (a) a valid airline identity card; or (b) for a person who is an aircraft safety inspector: (i) a valid government identity document showing that he or she is employed by a foreign government; or (ii) an ICAO Safety Inspector Certificate	No

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
15	Airline positioning crew members	Passport and a letter from the person's employer certifying that the person is an aircrew member and setting out the purpose of travel and the arrangements for the person to leave Australia	Yes
17	Non-citizen in respect of whom the Minister has made a declaration under paragraph 33 (2) (b) of the Act	Passport	Yes
21	Persons holding an Electronic Travel Authority (Class UD) visa	A passport that is an ETA-eligible passport in relation to the Subclass of the Electronic Travel Authority (Class UD) visa held by the person	Yes
22	Person referred to in paragraph 1223A (1) (c) of Schedule 1 who holds a Temporary Business Entry (Class UC) visa	(a) a passport of a designated APEC economy; or (b) in the case of a permanent resident of Hong Kong — any valid passport	Yes

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
23	Persons holding: (a) a visa granted on the basis of an Internet application; and (b) a passport of a kind specified by Gazette Notice for paragraph 1218 (3) (d) of Schedule 1 or paragraph 417.211 (3) (a) or (b) of Schedule 2	The passport mentioned in column 2	Yes
24	Persons holding a Visitor (Class TV) visa	A passport that is an eVisitor eligible passport in relation to the Subclass of the Visitor (Class TV) visa held by the person	Yes
<p><i>Note</i> Paragraph 33 (2) (b) of the Act authorises the Minister to declare that persons, or persons in a particular class, are taken to have been granted special purpose visas.</p>			

Part 2 Persons not required to comply with section 166 of the Act

- 1 Transit passengers:
 (a) who belong to a class of persons specified in a Gazette Notice for the purposes of paragraph 2.40 (1) (n); and
 (b) who do not leave the airport transit lounge except to continue their journey
- 1A A person:
 (a) to whom section 10 applies; and

(b) who has not left the migration zone.

Note Section 10 of the Act provides that a child who was born in the migration zone, and was a non-citizen when he or she was born, is taken to have entered Australia at birth. This item ensures that a newborn child is not required to give evidence of identity at the time of birth in the migration zone.

- 2 Persons visiting Macquarie Island, if permission for the visit has been granted in writing before the visit by the Secretary to the Department of Environment and Land Management of the State of Tasmania
- 3 Australian citizens who form part of an Australian National Antarctic Research Expedition from an Australian Antarctic station, and who are returning to Australia on board a vessel owned or chartered by the Commonwealth
- 4 SOFA forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 5 Asia-Pacific forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 6 Commonwealth forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 7 Foreign naval forces members, if permission to enter the migration zone for the vessel of which they form part of the complement was given in advance by the Australian Government
- 8 Guests of Government

- 9 Indonesian traditional fishermen who have prescribed status under regulation 2.40
- 10 A designated foreign dignitary
Note See regulation 3.06A.

Schedule 10 Prescribed forms

(regulation 1.03)

Form 1 Search Warrant — Valuables

(subregulation 5.32 (1))

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

Search Warrant — Valuables

To (*insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act*).

I, (*name*), the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Multicultural Affairs, authorise you, (*insert name of officer*), under subsection 223 (14) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance, and using such reasonable force, as you think necessary:

- (a) to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found any valuables to which a notice in force under section 223 of the Act relates; and
- (b) to seize any such valuables found in the course of such a search;

and for the purposes of the exercise of the foregoing powers, to stop any vehicle.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on 19

and ending on 19 .

Dated 19 .

Secretary [*or Delegate*]

Form 2 Search warrant

(subregulation 5.32 (2))

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

Search Warrant

To (*insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act*).

I, (*name*), the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Multicultural Affairs, authorise you, under subsection 251 (4) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance as you think necessary, to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found:

- (a) an unlawful non-citizen, a removee or a deportee, within the meaning of the Act; or
- (b) a person to whom a temporary visa under the Act has been issued subject to a condition with respect to the work to be performed by that person; or
- (c) any document, book or paper relating to the entry or proposed entry into Australia of a person in circumstances in which that person:
 - (i) would have become a prohibited immigrant within the meaning of the Act as in force from time to time before the commencement of the *Migration Amendment Act 1983*; or
 - (ii) would have become a prohibited non-citizen within the meaning of the Act as in force from time to time after the commencement of the *Migration Amendment Act 1983* but before the commencement of section 4 of the *Migration Legislation Amendment Act 1989*; or
 - (iii) would have become an illegal entrant within the meaning of the Act as in force from time to time after the commencement of section 4 of the *Migration Legislation Amendment Act 1989* but before commencement of section 7 of the *Migration Reform Act 1992*; or
 - (iv) would have become, or would become, an unlawful non-citizen; or
- (d) any passport or document of identity of, or any ticket for the conveyance from a place within Australia to a place outside Australia

of, an unlawful non-citizen, a removee or a deportee, within the meaning of the Act;

and to seize any such document, book, paper, passport, document of identity or ticket, as the case may be, and to impound and detain it for such time as you think necessary, and for the purposes of the exercise of the foregoing powers to stop any vessel or vehicle and to use such reasonable force as is necessary.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on 19
and ending on 19 .

Dated 19

..... Secretary [*or* Delegate]

**Form 3 Document issued in accordance with
Annex 9 of the ICAO Convention on
International Civil Aviation**

(regulation 5.33)

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

DOCUMENT ISSUED IN ACCORDANCE WITH ANNEX 9 OF THE
ICAO CONVENTION ON INTERNATIONAL CIVIL AVIATION

This document is issued by the Australian Government under subsection 274 (3) of the *Migration Act 1958* of the Commonwealth of Australia.

TO: Immigration or appropriate

authority:

Airport:.....

Country:.....

*Attach
photograph
(if available)*

The person to whom this document is issued is claiming the following identity:

Surname:.....

Given Name(s):

Date of Birth:..... Place of Birth:

.....

Nationality:

..... Residence:

.....
This person arrived in Australia on at..... Airport on
flight number from..... Airport.

The person named in this document:

*is being removed from Australia/*is being deported from Australia/*was
refused immigration clearance after entering Australia
and the incoming carrier has been instructed to remove *him/*her from the
territory of Australia on flight numberdeparting at.....
hours on from Airport.

At the time of entry to Australia this person was:

- * (1) Not in possession of any *travel/*identification documentation.
- * (2) In possession of the *photocopied/*attached documentation.
A brief description of the offending documentation follows —
* fraudulent/*falsified/*counterfeit
* passport/*identity card/*other document

Number:.....

Country in whose name documentation was

issued:.....

- * (3) In possession of documentation
that has been impounded for return to the appropriate authorities
of the issuing country.
- * (4) In possession of valid
*travel/*identification documentation that since expired and
cannot be renewed.

According to Annex 9 of the ICAO Convention on International Civil Aviation,
the last country in which a passenger previously stayed and most recently
travelled from, is invited to accept *him/*her for re-examination when *he/*she
has been refused admission to another country.

I,....., a delegate of the Secretary of the
Department of Immigration and Multicultural Affairs, issue this document
under subsection 274 (3) of the *Migration Act 1958*.

Signature and Official Title:.....

Date:

Airport:

Country: Australia

Telephone:.....

Telex:.....

Facsimile:

**delete as appropriate*

**WARNING — THIS DOCUMENT IS NOT AN IDENTIFICATION
DOCUMENT**

Form 4 Identity card
(regulation 2.102B)



COMMONWEALTH OF AUSTRALIA

Migration Act 1958

INSPECTOR'S IDENTITY CARD

For subsection 140W (1) of the *Migration Act 1958*, I, *[name]*, Minister for Immigration and Citizenship [*or a delegate of the Minister for Immigration and Citizenship*], certify that *[name]* whose photograph and signature appear on this card is an inspector for the purposes of the Act.

[photograph]

Dated *[date]*

[signature of Minister or delegate]

[signature of inspector]

Schedule 11 Memorandum of Understanding

(subregulation 2.12A (3))

Representatives of the Ministry of Civil Affairs of the People's Republic of China and the Department of Immigration and Ethnic Affairs of Australia met in Beijing from January 20 to 25, 1995 on the issue of recent unauthorised arrivals in Australia of Vietnamese refugees settled in China. The discussions were held in a friendly and cooperative atmosphere.

Being concluding parties to the "1951 Convention Relating to the Status of Refugees" and the "1967 Protocol Relating to the Status of Refugees", both parties observed that since 1979 the Chinese Government has provided effective protection to over 280,000 Vietnamese refugees settled in China, including significant humanitarian assistance such as land, housing, medical care, education and employment. Both parties also noted that the United Nations High Commissioner for Refugees has been closely involved in all matters relating to the refugees, with the active cooperation of the Chinese authorities, both centrally and locally.

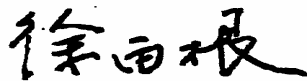
Both parties noted that the recent movement to Australia of some Vietnamese refugees settled in China was unauthorised. Consistent with international practice, both parties expressed their opposition to the unauthorised flow of refugees to third countries from the country of first asylum where they enjoy protection.

Both parties agreed that for the recent and possible future unauthorised arrivals in Australia of Vietnamese refugees settled in China they will, in the spirit of international cooperation and burden sharing and maintaining and further developing the friendly relations between China and Australia, and fulfilling international obligations consistent with international practice, engage in friendly consultations and seek proper settlement of the issue through agreed procedures. To this end, Vietnamese refugees settled in China returned under agreed verification arrangements, will continue to receive the protection of the Government of China.

On this basis both parties reached the following understandings on special arrangements for dealing with current unauthorised arrivals in Australia of Vietnamese refugees settled in China.

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1. The Ministry of Civil Affairs agrees to accept those refugees settled in China, subject to verification procedures as agreed between the two parties, and will be responsible for their resettlement. However, this will not constitute a precedent for China in its handling of similar cases with other countries and regions.
 2. The Department of Immigration and Ethnic Affairs will provide the Ministry of Civil Affairs with Vietnamese refugee registration forms as agreed between the two parties to facilitate the verification by the Chinese side. The Department of Immigration and Ethnic Affairs will be responsible for the return of the verified Vietnamese refugees to China by air and will meet all associated costs. The refugees will be returned in groups as soon as possible as verification procedures are completed.
 3. Both parties agree to keep the UNHCR informed of the outcome of the negotiations and progress in relation to the returns, and seek its assistance if necessary.

Done in duplicate in Beijing on January 25, 1995 in Chinese and English, both texts being equally authentic.



Director-General, Office for Reception
and Settlement of Indo-Chinese
Refugees

For the Ministry of Civil Affairs of the
People's Republic of China



Ambassador to the People's
Republic of China

For the Department of
Immigration and Ethnic Affairs
of Australia

Schedule 12 Exchange of letters

(subregulation 2.12A (3))

Part 1

AMBASSADOR

AUSTRALIAN EMBASSY
BEIJING

18 September 2008

Mr Kang Peng
Director-General
Department of Foreign Affairs
Ministry of Civil Affairs
Beijing
People's Republic of China

Dear Mr Kang

I am writing to seek the renewal of the Memorandum of Understanding of 25 January 1995 between the Department of Immigration and Ethnic Affairs (now the Department of Immigration and Citizenship) and the Ministry of Civil Affairs relating to unauthorised arrivals in Australia of Vietnamese refugees settled in the People's Republic of China.

I note that the Memorandum of Understanding, established with regard to Vietnamese refugees settled in China who have arrived in Australia as unauthorised arrivals after 25 January 1995, expired on 30 June 2008. I note further that the Memorandum of Understanding will come into effect again on the date on which the Government of Australia notifies the Government of the People's Republic of China that it has completed its domestic legislative processes for the entry into effect of the Memorandum of Understanding.

Upon your confirmation of this, this exchange of letters replaces the previous exchange of letters of 17 March 2006, and together with the Memorandum of Understanding constitutes an agreement between our two countries on this subject.

Yours sincerely

Geoff Raby (Dr)

Part 2

H.E. Geoff Raby Dr.
Ambassador to China
Australian Embassy
Beijing

October 7, 2008

Dear Ambassador Raby,

I refer to your letter of 18 September, 2008, and confirm that the Memorandum of Understanding of 25 January 1995, established with regard to Vietnamese refugees settled in China who have arrived Australia as unauthorised arrivals after 25 January 1995, will come into effect again on the date on which the Government of Australia notifies the Government of the People's Republic of China of the completion of its domestic legislative process. I look forward to receiving your letter of notification.

Yours sincerely

Kang Peng
Director-General
Department of Foreign Affairs
Ministry of Civil Affairs
People's Republic of China