



Commonwealth of Australia

Migration Regulations 1994

CLASSES OF PERSONS

(Subitem 1222(1))

I, *MICHAELIA CASH*, Assistant Minister for Immigration and Border Protection, acting under subparagraph 1222(1)(a)(ii) and subparagraph 1222(1)(aa)(i) of the *Migration Regulations 1994* ('the Regulations'):

1. REVOKE Legislative Instrument IMMI 13/093 (F2013L01551) signed on 1 August 2013 specifying classes of persons for the purposes of subparagraphs 1222(1)(a)(ii) and 1222(1)(aa)(i) of the Regulations; AND
2. SPECIFY the following classes of persons for the purposes of subparagraph 1222(1)(a)(ii):

Class 1

Persons who apply for a student visa and who:

- (a) are the holder of a passport issued by a foreign country set out in Schedule 1 to this Instrument;
- (b) seek to satisfy the primary criteria of the subclass of student visa corresponding to that passport set out in Schedule 1 to this Instrument;
- (c) are subject to a highest assessment level of 1; or meet the definition of 'eligible higher degree student' for the purposes of visa Subclasses 573 or 574, or meet the definition of 'eligible non-award student' for the purposes of visa Subclass 575;
- (d) are six years of age or above;
- (e) are, in the case of applicants subject to the highest assessment level of 1, the subject of an electronic confirmation of enrolment for at least the first course they propose to undertake; or, in the case of applicants for a Subclass 573 visa or Subclass 574 visa, meet the definition of 'eligible higher degree student', have an electronic confirmation of enrolment in each course of study they propose to undertake; or, in the case of applicants for a Subclass 575 visa meet the definition of 'eligible non-award student', have an electronic confirmation of enrolment in the course of study they propose to undertake; and
- (f) in the case of Internet applications, apply for a student visa not more than 124 days prior to the date of commencement of the first course specified on the electronic confirmation of enrolment(s).

Class 2

Persons who apply for a student visa and who:

- (a) are the holder of a passport issued by a foreign country;
- (b) seek to satisfy the secondary criteria of a subclass of student visa; and
- (c) claim to be a member of the family unit of, and make an application for a student visa at the same time and place as, and combined with, a person in Class 1 who is an applicant for a student visa and seeks to satisfy the primary criteria of the same

subclass of visa.

Class 3

Persons who apply for a student visa and who:

- (a) are the holder of a passport issued by a foreign country set out in Schedule 2 to this notice;
- (b) are in the foreign country that issued the passport;
- (c) seek to satisfy the primary criteria of the subclass of student visa corresponding to that passport set out in Schedule 2 to this notice;
- (d) make their application through the services of an agent who is party to an agreement with the Department to use an Internet facility for offshore student visa applications;
- (e) are six years of age or above;
- (f) are the subject of an electronic confirmation of enrolment for at least the first course they propose to undertake; and
- (g) apply for a student visa not more than 124 days prior to the date of commencement of the first course specified on the electronic confirmation of enrolment(s).

Class 4

Persons who apply for a student visa and who:

- (a) are the holder of a passport issued by a foreign country;
- (b) seek to satisfy the secondary criteria of a subclass of student visa;
- (c) make their application through the services of an agent who is party to an agreement with the Department to use an Internet facility for offshore student visa applications; and
- (d) claim to be a member of the family unit of, and make an application for a student visa at the same time and place as, and combined with, a person in Class 3 who is an applicant for a student visa and seeks to satisfy the primary criteria of the same subclass of visa.

3. SPECIFY the following classes of persons for the purpose of subparagraph 1222(1)(aa)(i):

Class 5

Persons who seek a student visa and who:

- (a) are not in immigration clearance; and
- (b) are at least six years of age; and
- (c) either:
 - (i) hold a subclass 570, 571, 572, 573, 574, 575 or 576 visa; or
 - (ii) are the holder of a passport issued by a foreign country set out in Schedule 1 to this Instrument, and
 - (iii) are **subject to a highest assessment level of 1**; or are applicants for a Subclass 573 or 574 visa who meet the definition of **'eligible higher degree student'**; or, who are applicants for a Subclass 575 visa who meet the definition of **'eligible non-award student'**; and who:
 - (A) seek to satisfy the primary criteria of the subclass of student visa that corresponds to that passport as set out in Schedule 1 of this Instrument; and
 - (B) **are the holder of a relevant visa identified in Schedule 3** of this Instrument; and
- (d)
 - (i) are enrolled in one or more registered courses:
 - (A) of a kind that has been specified under regulation 1.40A; and
 - (B) the provider of which is not a suspended education provider; and
 - (ii) **if under 18 years of age**, provide evidence that the education provider for the course in which the applicant is enrolled **has made appropriate arrangements**

for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's electronic confirmation of enrolment plus 7 days after the end of that period; and

- (e) in the case of Internet applications, apply no more than 93 days before their first course commences.

Class 6

Persons who:

- (a) are not in immigration clearance; and
- (b) are the holder of a passport issued by a foreign country; and
- (c) claim to be a member of the family unit of a person described in Class 5 (the *primary person*); and
- (d) seek to apply for a student visa at the same time and place as, and combined with, the primary person.

This Instrument, IMMI 14/017, commences on 22 March 2014, immediately after the commencement of *Migration Amendment (Redundant and Other Provisions) Regulation 2014*.

Dated 16 March 2014

MICHAELIA CASH
Assistant Minister for Immigration and Border Protection

Schedule 1**SUBCLASS 570 (INDEPENDENT ELICOS SECTOR)**

Andorra	Ireland, Republic of	Norway
Austria	Italy	Oman
Bahrain	Japan	Poland
Belgium	Korea, Republic of	Portugal
Bulgaria	Kuwait	Qatar
Brunei	Latvia	San Marino
Canada	Liechtenstein	Saudi Arabia
Chile	Lithuania	Singapore
Cyprus	Luxembourg	Slovenia
Czech Republic	Macau Special Administrative Regions of the People's Republic of China	Spain
Denmark	Malaysia	Sweden
Estonia	Malta	Switzerland
Finland	Mauritius	Taiwan
France	Mexico	United Arab Emirates
Germany	Monaco	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Greece	Netherlands, Kingdom of the	United States of America
Hong Kong Special Administrative Regions of the People's Republic of China	New Caledonia	Vatican City State (Holy See)
Iceland		

SUBCLASS 571 (SCHOOLS SECTOR)

Andorra	Italy	Portugal
Argentina	Japan	Qatar
Austria	Korea, Republic of	San Marino
Bahrain	Kuwait	Saudi Arabia
Belgium	Latvia	Seychelles
Botswana	Liechtenstein	Singapore
Brazil	Lithuania	Slovak Republic
Brunei	Luxembourg	Slovenia
Canada	Macau Special Administrative Region of the People's Republic of China	Solomon Islands
Chile	Malaysia	South Africa
Czech Republic	Maldives	Spain
Denmark	Malta	Sweden
Estonia	Mauritius	Switzerland
Finland	Mexico	Taiwan
France	Monaco	Thailand
Germany	Netherlands, Kingdom of the	United Arab Emirates

Greece	New Caledonia	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Hong Kong Special Administrative Region of the People's Republic of China	Norway	United States of America
Hungary	Oman	Vanuatu
Iceland	Peru	Vatican City State (Holy See)
Indonesia	Philippines	Venezuela
Ireland, Republic of	Poland	

SUBCLASS 572 (VOCATIONAL EDUCATION AND TRAINING SECTOR)

Andorra	Ireland, Republic of	Poland
Austria	Italy	Portugal
Bahrain	Japan	Qatar
Belgium	Korea, Republic of	Reunion
British National (Overseas)	Kuwait	San Marino
Brunei	Latvia	Seychelles
Bulgaria	Liechtenstein	Singapore
Canada	Lithuania	Slovenia
Chile	Luxembourg	Spain
Cyprus	Macau Special Administrative Region of the People's Republic of China	Sweden
Denmark	Malaysia	Switzerland
Estonia	Malta	Taiwan
Finland	Mexico	United Arab Emirates
France	Monaco	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Germany	Netherlands, Kingdom of the	United States of America
Greece	New Caledonia	Vatican City State (Holy See)
Hong Kong Special Administrative Region of the People's Republic of China	Norway	Venezuela
Iceland	Oman	

SUBCLASS 573 (HIGHER EDUCATION SECTOR)

Andorra	Hungary	Poland
Argentina	Iceland	Portugal
Austria	Ireland, Republic of	Qatar
Bahamas	Italy	Reunion
Bahrain	Japan	San Marino
Barbados	Korea, Republic of	Saudi Arabia
Belgium	Kuwait	Seychelles
Botswana	Latvia	Singapore

Brazil	Liechtenstein	Slovak Republic
British National (Overseas)	Lithuania	Slovenia
Brunei	Luxembourg	Solomon Islands
Bulgaria	Macau Special Administrative Region of the People's Republic of China	South Africa
Canada	Malaysia	Spain
Chile	Maldives	Sweden
Costa Rica	Malta	Switzerland
Cyprus	Mauritius	Taiwan
Czech Republic	Mexico	Thailand
Denmark	Monaco	United Arab Emirates
Estonia	Netherlands, Kingdom of the	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Finland	New Caledonia	United States of America
France	Norway	Vanuatu
Germany	Oman	Vatican City State (Holy See)
Greece	Papua New Guinea	Venezuela
Hong Kong Special Administrative Region of the People's Republic of China	Peru	

SUBCLASS 574 (POSTGRADUATE RESEARCH SECTOR)

Andorra	Ireland, Republic of	Philippines
Argentina	Israel	Poland
Austria	Italy	Portugal
Bahamas	Japan	Qatar
Bahrain	Jordan	Romania
Barbados	Korea, Republic of	Russian Federation
Belgium	Indonesia	San Marino
Bhutan	Kazakhstan	Saudi Arabia
Botswana	Kuwait	Seychelles
Brazil	Lao People's Democratic Republic	Singapore
British National (Overseas)	Latvia	Slovak Republic
Brunei	Lebanon	Slovenia
Bulgaria	Liechtenstein	Solomon Islands
Canada	Lithuania	South Africa
Chile	Luxembourg	Spain
Costa Rica	Macau Special Administrative Region of the People's Republic of China	Sweden
Cyprus	Malaysia	Switzerland
Czech Republic	Maldives	Taiwan
Denmark	Malta	Tanzania
East Timor (Timor Leste)	Mauritius	Thailand
Ecuador	Mexico	Tonga

Egypt	Monaco	Turkey
Estonia	Nepal	Ukraine
Finland	Netherlands, Kingdom of the	United Arab Emirates
France	New Caledonia	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Germany	North Mariana Islands	United States of America
Greece	Norway	Uruguay
Guam	Oman	Vanuatu
Hong Kong Special Administrative Region of the People's Republic of China	Papua New Guinea	Vatican City (Holy See)
Hungary	People's Republic of China [excluding passports issued by the Special Administrative Regions of Hong Kong and Macau]	Venezuela
Iceland	Peru	Vietnam
India		

SUBCLASS 575 (NON-AWARD SECTOR)

Andorra	Ireland, Republic of	Portugal
Argentina	Israel	Qatar
Austria	Italy	San Marino
Bahrain	Japan	Saudi Arabia
Belgium	Korea, Republic of	Seychelles
Botswana	Kuwait	Singapore
Brazil	Latvia	Slovak Republic
Brunei	Liechtenstein	Slovenia
Bulgaria	Lithuania	Solomon Islands
Canada	Luxembourg	South Africa
Chile	Macau Special Administrative Region of the People's Republic of China	Spain
Colombia	Malaysia	Sweden
Cyprus	Malta	Switzerland
Czech Republic	Mexico	Taiwan
Denmark	Monaco	Thailand
Estonia	Netherlands, Kingdom of the	Turkey
Finland	New Caledonia	United Arab Emirates
France	Norway	United Kingdom [excluding British National (Overseas), British Dependent Territories Citizen, British Overseas Citizen, British Protected Person, British Subject]
Germany	Oman	United States of America
Greece	Peru	Vanuatu

Hong Kong Special Administrative Region of the People's Republic of China	Philippines	Vatican City State (Holy See)
Hungary	Poland	Venezuela
Iceland		

Schedule 2

SUBCLASS 570 (INDEPENDENT ELICOS SECTOR)

India	People's Republic of China [excluding the Special Administrative Regions of Hong Kong and Macau]	Thailand
Indonesia		

SUBCLASS 571 (SCHOOLS SECTOR)

India	People's Republic of China [excluding the Special Administrative Regions of Hong Kong and Macau]	
-------	---	--

SUBCLASS 572 (VOCATIONAL EDUCATION AND TRAINING SECTOR)

India	People's Republic of China [excluding the Special Administrative Regions of Hong Kong and Macau]	Thailand
Indonesia		

SUBCLASS 573 (HIGHER EDUCATION SECTOR)

India	Indonesia	People's Republic of China [excluding the Special Administrative Regions of Hong Kong and Macau]
-------	-----------	---

SUBCLASS 574 (POSTGRADUATE RESEARCH SECTOR)

None specified

SUBCLASS 575 (NON-AWARD SECTOR)

India	Indonesia	People's Republic of China [excluding the Special Administrative Regions of Hong Kong and Macau]
-------	-----------	---

Schedule 3

Relevant visa means a visa of one of the following classes or subclasses:

Border (Temporary) (Class TA);
Business (Temporary) (Class TB);
Cultural/Social (Temporary) (Class TE);
Educational (Temporary) (Class TH);
Electronic Travel Authority (Class UD);
Expatriate (Temporary) (Class TJ);
Family Relationship (Temporary) (Class TL);
Long Stay (Visitor) (Class TN));
Maritime Crew (Temporary) (Class ZM);
Medical Practitioner (Temporary) (Class UE);
Retirement (Temporary) (Class TQ);
Supported Dependant (Temporary) (Class TW);
Temporary Business Entry (Class UC);
Temporary Work (Entertainment)(Class GE);
Temporary Work (International Relations)(Class GD) other than a visa in the Domestic Worker (Diplomatic or Consular) Stream;
Temporary Work (Long Stay Activity)(Class GB);
Temporary Work (Short Stay Activity)(Class GA);
Tourist (Class TR);
Training and Research (Class GC);
Visitor (Class FA);
Working Holiday (Temporary) (Class TZ);
Subclass 303 (Emergency (Temporary Visa Applicant));
Subclass 427 (Domestic Worker (Temporary) — Executive);
Subclass 485 (Skilled — Graduate);
Subclass 497 (Graduate — Skilled);
Subclass 488 (Superyacht Crew Visa – Temporary) (Class UW);
Subclass 651 (eVisitor – Temporary) (Class TV).

EXPLANATORY STATEMENT

Migration Regulations 1994

CLASSES OF PERSONS (Subitem 1222(1))

1. This Legislative Instrument is made under subparagraphs 1222(1)(a)(ii) and 1222(1)(aa)(i) of the *Migration Regulations 1994* ('the Regulations').
2. Paragraph 1222(1)(a) provides that an applicant who is outside Australia and who is included in a class of persons specified in a legislative instrument made by the Minister for the purposes of subparagraph 1222(1)(a)(ii), must apply for a Student visa using Form 157A or 157E.
3. Subparagraph 1222(1)(aa) provides that an applicant who is in Australia and who is included in a class of persons specified by an instrument in writing for the purposes of subparagraph 1222(1)(aa)(i), must apply for a Student visa using Form 157A or 157A (Internet).
4. The purpose of the Legislative Instrument is to specify the classes of persons, in the case of an application made by an applicant **outside Australia** for a Student (Temporary) (Class TU) visa, who can use form 157A or 157E and in the case of an application made by an applicant applying in Australia for a Student (Temporary) (Class TU) visa, **who can use form 157A or 157A (Internet)**.
5. The Legislative Instrument operates to:
 - inform applicants for a Student (Temporary) (Class TU) visa about which form they can use to lodge an application **outside Australia, in particular the classes of persons eligible to lodge online internet** based applications;
 - inform applicants for a Student (Temporary) (Class TU) visa about which form they can use to lodge an application in Australia, in particular the classes of persons eligible to lodge online internet based applications;
 - specify that applicants in Classes 1 and 5 who lodge Internet applications must not do so earlier than the period specified in each instance. **These periods do not apply to applicants who lodge paper applications;** and,
 - specify applicants for a Subclass 573 visa or Subclass 574 visa who meet the **definition of an 'eligible higher degree student'** and applicants for a Subclass 575 visa

who meet the definition of an 'eligible non-award student' to Classes 1 and 5 of the Instrument. This allows these applicants the option of lodging an internet application.

6. The Instrument is updated to reflect a name change from 'eligible university exchange student' to 'eligible non-award student'. This update has occurred within the Regulations. This change supports the extension of streamlined visa processing arrangements to selected low immigration risk non-university education providers (recommendation 1 of the *Review of the Student Visa Assessment Level Framework 2013*).
7. Consultation was conducted with relevant external stakeholders from the international education sector and other Commonwealth government agencies as part of the broader consultation during the *Review of the Student Visa Assessment Level Framework 2013*. These include education peak bodies, State/Territory and Commonwealth Departments of Education, Austrade and an External Reference Group comprising members with expertise in international education and immigration risk.
8. Under subsection 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Human Rights Statement of Compatibility is not required.
9. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 16207).
10. This Legislative Instrument, IMMI 14/017, commences on 22 March 2014, immediately after the commencement of *Migration Amendment (Redundant and Other Provisions) Regulation 2014*.