



Migration Amendment (Family Violence Provisions for Skilled Visa Applications) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 10 October 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Tony Burke
Minister for Immigration and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Family Violence Provisions for Skilled Visa Applications) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 15 October 2024 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Migration Regulations 1994

1 After subregulation 4.13(2)

Insert:

- (2A) No fee is payable on an application made by a person (the *review applicant*) for review of a decision (the *decision for review*) made by the Minister if:
- (a) the decision for review is a refusal to grant the review applicant a visa because the review applicant did not satisfy at least one of the secondary criteria for the grant of the visa; and
 - (b) that criterion was not satisfied because the Minister had refused to grant a visa to a person (the *primary applicant*) who:
 - (i) is a former spouse or former de facto partner of the review applicant; and
 - (ii) was seeking to satisfy the primary criteria for the grant of that visa; and
 - (c) in making the decision for review, the Minister was satisfied that the review applicant satisfied a criterion that the review applicant, or another person mentioned in the criterion, has experienced family violence committed by the primary applicant.

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

2 Paragraph 1113(2)(b) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (c) is an applicant to whom item 1A does not apply

3 Paragraph 1113(2)(b) of Schedule 1 (after table item 1)

Insert:

| | | |
|----|---|-----|
| 1A | Applicant who meets the requirements of subclause 858.321(3), (3A) or (4) of Schedule 2 | Nil |
|----|---|-----|

4 Paragraph 1114B(2)(b) of Schedule 1 (at the end of the cell at table item 3, column headed “Applicant”)

Add:

; or (c) an applicant who meets the requirements of subclause 186.311(3), (4) or (5) of Schedule 2

5 Paragraph 1114C(2)(b) of Schedule 1 (at the end of the cell at table item 3, column headed “Applicant”)

Add:

; or (c) an applicant who meets the requirements of subclause 187.311(3), (4) or (5) of Schedule 2

6 Paragraph 1136(2)(b) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (d) is an applicant to whom item 1A does not apply

7 Paragraph 1136(2)(b) of Schedule 1 (after table item 1)

Insert:

- 1A Applicant who meets the requirements of Nil
subclause 887.321(3), (4) or (5) of
Schedule 2

8 Subitem 1137(4) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (c) is an applicant to whom item 1A does not apply

9 Subitem 1137(4) of Schedule 1 (after table item 1)

Insert:

- 1A Applicant who meets the requirements of Nil
subclause 189.311(3), (4) or (5) of
Schedule 2

10 Subitem 1137(4K) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (c) is an applicant to whom item 1A does not apply

11 Subitem 1137(4K) of Schedule 1 (after table item 1)

Insert:

- 1A Applicant who meets the requirements of Nil
subclause 189.311(3), (4) or (5) of
Schedule 2

12 Paragraph 1138(2)(b) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (c) is an applicant to whom item 1A does not apply

13 Paragraph 1138(2)(b) of Schedule 1 (after table item 1)

Insert:

- 1A Applicant who meets the requirements of Nil
subclause 190.311(3), (4) or (5) of
Schedule 2

14 Paragraph 1139(2)(b) of Schedule 1 (at the end of the cell at table item 1, column headed “Applicant”)

Add:

; and (c) to whom item 1A does not apply

15 Paragraph 1139(2)(b) of Schedule 1 (after table item 1)

Insert:

- 1A Applicant who meets the requirements of Nil
subclause 191.311(3), (4) or (5) of
Schedule 2

16 Clause 186.213 of Schedule 2

Repeal the clause, substitute:

186.213

- (1) The applicant (the *primary applicant*) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.
 - (2) If the primary applicant has turned 18 at the time of application, the primary applicant satisfies public interest criterion 4019.
 - (3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.
 - (4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 186 visa.
 - (5) This subclause covers a person (the *relevant person*) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 186 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.
- Note: For special provisions relating to family violence, see Division 1.5.
- (6) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 186 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (5).
 - (7) Each person:
 - (a) who either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 186 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) who had turned 18 at the time of the primary applicant's application; satisfies public interest criterion 4019.
 - (8) If a person:
 - (a) either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 186 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) has not turned 18; public interest criteria 4015 and 4016 are satisfied in relation to the person.
 - (9) Each person:

- (a) who is a member of the family unit of the primary applicant; and
 - (b) who is not an applicant for a Subclass 186 visa;
- satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:

- (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
 - (b) who is a member of the family unit of a person who is covered by subclause (5); and
 - (c) who is not an applicant for a Subclass 186 visa;
- satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

17 Subclause 186.214(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa", substitute "Each person covered by subclause 186.213(4), (5) or (6)".

18 Subclause 186.224(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa", substitute "Each person covered by subclause 186.213(4), (5) or (6)".

19 At the end of clause 186.224 of Schedule 2

Add:

- (4) Each person:
 - (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and
 - (b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and
 - (c) who is not an applicant for a Subclass 186 visa;satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

20 Subclause 186.235(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa", substitute "Each person covered by subclause 186.213(4), (5) or (6)".

21 At the end of clause 186.235 of Schedule 2

Add:

- (4) Each person:
 - (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and
 - (b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and
 - (c) who is not an applicant for a Subclass 186 visa;

satisfies public interest criterion 4005 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to the criterion.

22 Subclause 186.244(2) of Schedule 2

Omit “Each member of the family unit of the applicant who is an applicant for a Subclass 186 visa”, substitute “Each person covered by subclause 186.213(4), (5) or (6)”.

23 At the end of clause 186.244 of Schedule 2

Add:

- (4) Each person:
- (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member the family unit of the applicant; and
 - (b) who is a member of the family unit of an applicant who is covered by subclause 186.213(5) or (6); and
 - (c) who is not an applicant for a Subclass 186 visa;
- satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

24 Clauses 186.311 and 186.312 of Schedule 2

Repeal the clauses, substitute:

186.311

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant:
 - (a) is a member of the family unit of a person (the *primary applicant*) who holds a Subclass 186 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
 - (b) made a combined application with the primary applicant.
- (3) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 186 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant’s visa application was made; or
 - (ii) entered Australia after the applicant’s visa application was made.

- (4) The applicant meets the requirements of this subclause if:
- (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 186 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 186 visa has since been granted to the secondary applicant.

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

186.312

If:

- (a) the applicant meets the requirements of subclause 186.311(2); and
- (b) a nomination mentioned in paragraph 1114B(3)(d) of Schedule 1 is approved in respect of the primary applicant mentioned in subclause 186.311(2);

the nomination includes the applicant.

25 Division 186.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

26 Subclause 186.313(4) of Schedule 2

Repeal the subclause, substitute:

- (4) If:
- (a) the primary applicant mentioned in clause 186.311 in relation to the applicant holds a Subclass 186 visa in the Temporary Residence Transition stream; or

- (b) at the time of the application, the primary applicant mentioned in clause 186.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 186 visa in the Temporary Residence Transition stream;

the applicant satisfies public interest criterion 4007.

27 At the end of Division 186.3 of Schedule 2

Add:

186.315

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 186.311(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020; and
 - (b) special return criteria 5001, 5002 and 5010.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

Temporary Residence Transition stream

- (6) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Temporary Residence Transition stream at the time of application:
 - (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4007; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Direct Entry stream

- (7) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Direct Entry stream at the time of application:
 - (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005

unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Labour Agreement stream

- (8) If the primary applicant mentioned in clause 186.311 was seeking to satisfy the criteria for a Subclass 186 visa in the Labour Agreement stream at the time of application:
- (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 186 visa satisfies public interest criterion 4005; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 186 visa satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

28 Clause 187.213 of Schedule 2

Repeal the clause, substitute:

187.213

- (1) The applicant (the *primary applicant*) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010, 4020 and 4021.
 - (2) If the primary applicant has turned 18 at the time of application, the primary applicant satisfies public interest criterion 4019.
 - (3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.
 - (4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 187 visa.
 - (5) This subclause covers a person (the *relevant person*) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 187 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.
- Note: For special provisions relating to family violence, see Division 1.5.
- (6) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 187 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (5).
 - (7) Each person:
 - (a) who either:

- (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 187 visa; or
- (ii) is covered by subclause (5) or (6); and
- (b) who had turned 18 at the time of the primary applicant's application; satisfies public interest criterion 4019.

(8) If a person:

(a) either:

- (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 187 visa; or
- (ii) is covered by subclause (5) or (6); and

(b) has not turned 18;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

(9) Each person:

(a) who is a member of the family unit of the primary applicant; and

(b) who is not an applicant for a Subclass 187 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:

(a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and

(b) who is a member of the family unit of a person who is covered by subclause (5); and

(c) who is not an applicant for a Subclass 187 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

29 Subclause 187.214(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa", substitute "Each person covered by subclause 187.213(4), (5) or (6)".

30 Subclause 187.224(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa", substitute "Each person covered by subclause 187.213(4), (5) or (6)".

31 At the end of clause 187.224 of Schedule 2

Add:

(4) Each person:

(a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and

(b) who is a member of the family unit of an applicant who is covered by subclause 187.213(5) or (6); and

(c) who is not an applicant for a Subclass 187 visa;

satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

32 Subclause 187.235(2) of Schedule 2

Omit “Each member of the family unit of the applicant who is an applicant for a Subclass 187 visa”, substitute “Each person covered by subclause 187.213(4), (5) or (6)”.

33 At the end of clause 187.235 of Schedule 2

Add:

- (4) Each person:
 - (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
 - (b) who is a member of the family unit of an applicant covered by subclause 187.213(5) or (6); and
 - (c) who is not an applicant for a Subclass 187 visa;satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

34 Clauses 187.311 and 187.312 of Schedule 2

Repeal the clauses, substitute:

187.311

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant:
 - (a) is a member of the family unit of a person (the *primary applicant*) who holds a Subclass 187 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
 - (b) made a combined application with the primary applicant.
- (3) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 187 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant’s visa application was made; or
 - (ii) entered Australia after the applicant’s visa application was made.
- (4) The applicant meets the requirements of this subclause if:

- (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 187 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 187 visa has since been granted to the secondary applicant.

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

187.312

If:

- (a) the applicant meets the requirements of subclause 187.311(2); and
- (b) a nomination mentioned in paragraph 1114C(3)(d) of Schedule 1 is approved in respect of the primary applicant mentioned in subclause 187.311(2);

the nomination includes the applicant.

35 Division 187.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

36 Subclause 187.313(4) of Schedule 2

Repeal the subclause, substitute:

- (4) If:
 - (a) the primary applicant mentioned in clause 187.311 in relation to the applicant holds a Subclass 187 visa in the Temporary Residence Transition stream; or

- (b) at the time of the application, the primary applicant mentioned in clause 187.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 187 visa in the Temporary Residence Transition stream;
- the applicant satisfies public interest criterion 4007.

37 At the end of Division 187.3 of Schedule 2

Add:

187.315

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 187.311(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020; and
 - (b) special return criteria 5001, 5002 and 5010.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

Temporary Residence Transition stream

- (6) If the primary applicant mentioned in clause 187.311 was seeking to satisfy the criteria for a Subclass 187 visa in the Temporary Residence Transition stream at the time of application:
 - (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4007; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Direct Entry stream

- (7) If the primary applicant mentioned in clause 187.311 was seeking to satisfy the criteria for a Subclass 187 visa in the Direct Entry stream at the time of application:
 - (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 187 visa satisfies public interest criterion 4005; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 187 visa satisfies public interest criterion 4005

unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

38 Clause 189.211 of Schedule 2

Repeal the clause, substitute:

189.211

- (1) The applicant (the *primary applicant*) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4020 and 4021.
 - (2) If the primary applicant has turned 18 at the time of application, the primary applicant satisfies public interest criterion 4019.
 - (3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4010 and 4020.
 - (4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 189 visa.
 - (5) This subclause covers a person (the *relevant person*) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 189 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.
- Note: For special provisions relating to family violence, see Division 1.5.
- (6) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 189 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (5).
 - (7) Each person:
 - (a) who either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 189 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) who had turned 18 at the time of the primary applicant's application; satisfies public interest criterion 4019.
 - (8) If a person:
 - (a) either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 189 visa; or
 - (ii) is covered by subclause (5); and
 - (b) has not turned 18;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

(9) Each person:

- (a) who is a member of the family unit of the primary applicant; and
- (b) who is not an applicant for a Subclass 189 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

(10) Each person:

- (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and

- (b) who is a member of the family unit of a person who is covered by subclause (5); and

- (c) who is not an applicant for a Subclass 189 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

39 Subclause 189.212(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa", substitute "Each person covered by subclause 189.211(4), (5) or (6)".

40 Subclause 189.225(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa", substitute "Each person covered by subclause 189.211(4), (5) or (6)".

41 At the end of clause 189.225 of Schedule 2

Add:

(4) Each person:

- (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and

- (b) who is a member of the family unit of an applicant covered by subclause 189.211(5) or (6); and

- (c) who is not an applicant for a Subclass 189 visa;

satisfies public interest criterion 4005, unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

42 Subclause 189.226(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa", substitute "Each person covered by subclause 189.211(4), (5) or (6)".

43 Subclause 189.243(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 189 visa", substitute "Each person covered by subclause 189.211(4), (5) or (6)".

44 At the end of clause 189.243 of Schedule 2

Add:

(4) Each person:

- (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
 - (b) who is a member of the family unit of an applicant covered by subclause 189.211(5) or (6); and
 - (c) who is not an applicant for a Subclass 189 visa;
- satisfies public interest criterion 4007, unless it would be unreasonable to require the person to undergo assessment in relation to the criterion.

45 Division 189.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

46 Clause 189.311 of Schedule 2

Repeal the clause, substitute:

189.311

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant:
 - (a) is a member of the family unit of a person (the *primary applicant*) who holds a Subclass 189 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
 - (b) made a combined application with the primary applicant.
- (3) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 189 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made.
- (4) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 189 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:

- (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant;
- has experienced family violence committed by the primary applicant; and
- (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 189 visa has since been granted to the secondary applicant.

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

47 Subclauses 189.312(4) and (5) of Schedule 2

Repeal the subclauses, substitute:

- (4) If:
 - (a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Points-tested stream; or
 - (b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Points-tested stream;

the applicant satisfies public interest criteria 4005 and 4010.

- (5) If:
 - (a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Hong Kong stream; or
 - (b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Hong Kong stream;

the applicant satisfies public interest criterion 4007.

48 Clause 189.313 of Schedule 2

Repeal the clause, substitute:

189.313

- (1) If:

- (a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Points-tested stream; or
- (b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Points-tested stream;

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

(2) If:

- (a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the Hong Kong stream; or
- (b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the Hong Kong stream;

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

(3) If:

- (a) the primary applicant mentioned in clause 189.311 in relation to the applicant holds a Subclass 189 visa in the New Zealand stream; or
- (b) at the time of the application, the primary applicant mentioned in clause 189.311 in relation to the applicant was seeking to satisfy the primary criteria for the grant of a Subclass 189 visa in the New Zealand stream;

the applicant satisfies special return criteria 5001 and 5002.

49 At the end of Division 189.3 of Schedule 2

Add:

189.314

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 189.311(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004 and 4020; and
 - (b) special return criteria 5001 and 5002.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004.

Points Tested stream

- (6) If the primary applicant mentioned in clause 189.311 was seeking to satisfy the criteria for a Subclass 189 visa in the Points Tested stream at the time of application:
- (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies public interest criteria 4005 and 4010 and special return criterion 5010; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

Hong Kong stream

- (7) If the primary applicant mentioned in clause 189.311 was seeking to satisfy the criteria for a Subclass 189 visa in the Hong Kong stream at the time of application:
- (a) each member of the family unit of the secondary applicant who is an applicant for a Subclass 189 visa satisfies public interest criterion 4007; and
 - (b) each member of the family unit of the secondary applicant who is not an applicant for a Subclass 189 visa satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to the criterion.

50 Clause 190.216 of Schedule 2

Repeal the clause, substitute:

190.216

- (1) The applicant (the **primary applicant**) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4020 and 4021.
- (2) If the primary applicant has turned 18 at the time of application, the primary applicant satisfies public interest criterion 4019.
- (3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020.
- (4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 190 visa.
- (5) This subclause covers a person (the **relevant person**) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 190 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.

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

- (6) This subclause covers a person if:
- (a) the person is an applicant for a Subclass 190 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (5).
- (7) Each person:
- (a) who either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 190 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) who had turned 18 at the time of the primary applicant's application; satisfies public interest criterion 4019.
- (8) If a person:
- (a) either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 190 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) has not turned 18;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.
- (9) Each person:
- (a) who is a member of the family unit of the primary applicant; and
 - (b) who is not an applicant for a Subclass 190 visa;
- satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (10) Each person:
- (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
 - (b) who is a member of the family unit of a person who is covered by subclause (5); and
 - (c) who is not an applicant for a Subclass 190 visa;
- satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4005 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

51 Subclause 190.217(2) of Schedule 2

Omit "Each member of the family unit of the applicant who is an applicant for a Subclass 190 visa", substitute "Each person covered by subclause 190.216(4), (5) or (6)".

52 Division 190.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

53 Clause 190.311 of Schedule 2

Repeal the clause, substitute:

190.311

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant:
 - (a) is a member of the family unit of a person who holds a Subclass 190 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
 - (b) made a combined application with that person.
- (3) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 190 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made.
- (4) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 190 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 190 visa has since been granted to the secondary applicant.

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

54 At the end of Division 190.3 of Schedule 2

Add:

190.314

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 190.311(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4010 and 4020; and
 - (b) special return criteria 5001, 5002 and 5010.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 190 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 190 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005 unless it would be unreasonable to require the member to undergo assessment in relation to that criterion.

55 Clause 191.211 of Schedule 2

Repeal the clause, substitute:

191.211

- (1) The applicant (the *primary applicant*) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021.
- (2) If the primary applicant has turned 16 at the time of application, the primary applicant satisfies public interest criterion 4019.
- (3) Each person who is covered by subclause (4), (5) or (6) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021.
- (4) This subclause covers a person who is a member of the family unit of the primary applicant who is also an applicant for a Subclass 191 visa.
- (5) This subclause covers a person (the *relevant person*) if:

- (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
- (b) the relevant person is an applicant for a Subclass 191 visa; and
- (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.

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

- (6) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 191 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (5).
- (7) Each person:
 - (a) who either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 191 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) who had turned 16 at the time of the primary applicant's application; satisfies public interest criterion 4019.
- (8) If a person:
 - (a) either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 191 visa; or
 - (ii) is covered by subclause (5) or (6); and
 - (b) has not turned 18; public interest criteria 4015 and 4016 are satisfied in relation to the person.
- (9) Each person:
 - (a) who is a member of the family unit of the primary applicant; and
 - (b) who is not an applicant for a Subclass 191 visa; satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (10) Each person:
 - (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
 - (b) who is a member of the family unit of a person who is covered by subclause (5); and
 - (c) who is not an applicant for a Subclass 191 visa; satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless it would be unreasonable to require the person to undergo assessment in relation to that criterion.

56 Subclause 191.212(2) of Schedule 2

Omit “Each member of the family unit of the applicant who is an applicant for a Subclass 191 visa”, substitute “Each person covered by subclause 191.211(4), (5) or (6)”.

57 Division 191.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria. All criteria must be satisfied at the time a decision is made on the application.

58 Clause 191.311 of Schedule 2

Repeal the clause, substitute:

191.311

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant:
 - (a) is a member of the family unit of a person who holds a Subclass 191 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
 - (b) made a combined application with that person.
- (3) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 191 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant’s visa application was made; or
 - (ii) entered Australia after the applicant’s visa application was made.
- (4) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 191 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;

- (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 191 visa has since been granted to the secondary applicant.

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

59 At the end of Division 191.3 of Schedule 2

Add:

191.315

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 191.311(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021; and
 - (b) special return criteria 5001, 5002 and 5010.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa and who has turned 16 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 191 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 191 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004; and
 - (b) satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to that criterion.

60 Clauses 858.223 and 858.224 of Schedule 2

Repeal the clauses, substitute:

858.223

- (1) Each person who is covered by subclause (2), (3) or (4) satisfies public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4009 and 4010.
- (2) This subclause covers a person:
 - (a) who is a member of the family unit of the applicant (the *primary applicant*); and
 - (b) who is also an applicant for a Subclass 858 visa.
- (3) This subclause covers a person (the *relevant person*) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 858 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or
 - (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
 - (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.

Note: For special provisions relating to family violence, see Division 1.5.
- (4) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 858 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (3).
- (5) Each person:
 - (a) who either:
 - (i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 858 visa; or
 - (ii) is covered by subclause (3) or (4); and
 - (b) who had turned 18 at the time of the primary applicant's application; satisfies public interest criterion 4019.
- (6) Each person:
 - (a) who is a member of the family unit of the primary applicant; and
 - (b) who is not an applicant for a Subclass 858 visa;satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (7) Each person:
 - (a) who was, at the time of the primary applicant's application, a member of the family unit of the primary applicant but is no longer a member of the family unit of the primary applicant; and
 - (b) who is a member of the family unit of a person who is covered by subclause (3); and
 - (c) who is not an applicant for a Subclass 858 visa;

satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004, and satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

858.224

If a person:

(a) either:

(i) is a member of the family unit of the primary applicant and also an applicant for a Subclass 858 visa; or

(ii) is covered by subclause 858.223(3) or (4); and

(b) has not turned 18;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

61 Paragraph 858.227(b) of Schedule 2

Repeal the paragraph, substitute:

(b) each person covered by subclause 858.223(2), (3) or (4) satisfies public interest criterion 4020.

62 Subclause 858.228(2) of Schedule 2

Omit “Each member of the family unit of the applicant who is an applicant for a Subclass 858 visa”, substitute “Each person covered by subclause 858.223(2), (3) or (4)”.

63 Division 858.3 of Schedule 2 (note 1 to the heading)

Repeal the note, substitute:

Note 1: These criteria are for applicants seeking to satisfy the secondary criteria.

64 Subclause 858.321(1) of Schedule 2

After “(3)”, insert “, (3A)”.

65 Subclause 858.321(2) of Schedule 2

Omit “(the *non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 858 visa”, substitute “(the *primary applicant*) who holds a Subclass 858 visa granted on the basis of satisfying the primary criteria for the grant of the visa”.

66 Paragraph 858.321(3)(a) of Schedule 2

Repeal the paragraph, substitute:

(a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 858 visa, and the primary applicant has since been granted that visa; and

67 Paragraph 858.321(3)(b) of Schedule 2

Omit “non-dependent holder”, substitute “primary applicant”.

68 Subparagraph 858.321(3)(c)(ii) of Schedule 2

After “with”, insert “the applicant or with”.

69 Paragraph 858.321(3)(c) of Schedule 2

Omit “non-dependent holder” (wherever occurring), substitute “primary applicant”.

70 Paragraph 858.321(3)(d) of Schedule 2

Repeal the paragraph, substitute:

- (d) the applicant:
 - (i) was in Australia at the time the applicant’s visa application was made;
or
 - (ii) entered Australia after the applicant’s visa application was made.

71 After subclause 858.321(3) of Schedule 2

Insert:

- (3A) The applicant meets the requirements of this subclause if:
 - (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the *primary applicant*) seeking to satisfy the primary criteria for the grant of a Subclass 858 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant’s visa application was made;
or
 - (ii) entered Australia after the applicant’s visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).

72 Subclause 858.321(4) of Schedule 2

Repeal the subclause (not including the note), substitute:

- (4) The applicant meets the requirements of this subclause if:
 - (a) the applicant is a member of the family unit of a person (the *secondary applicant*) who meets the requirements of subclause (3) or (3A); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (3A) (whichever applies to the secondary applicant); and
 - (c) a Subclass 858 visa has since been granted to the secondary applicant.

73 Clause 858.326 of Schedule 2

Omit “non-dependent holder”, substitute “primary applicant”.

74 At the end of Division 858.3 of Schedule 2

Add:

858.328

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 858.321(3A).
- (2) Each member of the family unit of the secondary applicant satisfies public interest criterion 4020.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 858 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4009 and 4010; and
 - (b) special return criteria 5001, 5002 and 5010.
- (4) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 858 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (5) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 858 visa and who has not turned 18 at the time of application.
- (6) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 858 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4003B and 4004; and
 - (b) satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to that criterion.

75 Clauses 887.225 and 887.226 of Schedule 2

Repeal the clauses, substitute:

887.225

- (1) Each person who is covered by subclause (2), (3) or (4):
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010 and 4020; and
 - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
 - (c) satisfies special return criteria 5001, 5002 and 5010.
- (2) This subclause covers a person:
 - (a) who is a member of the family unit of the applicant (the *primary applicant*); and
 - (b) who is also an applicant for a Subclass 887 visa.
- (3) This subclause covers a person (the *relevant person*) if:
 - (a) the relevant person was, at the time of the primary applicant's application, a member of the family unit of the primary applicant; and
 - (b) the relevant person is an applicant for a Subclass 887 visa; and
 - (c) the Minister is satisfied that:
 - (i) the relevant person; or

- (ii) a member of the family unit of the relevant person who has made a combined application with the relevant person or with the primary applicant; or
- (iii) a dependent child of the relevant person or of the primary applicant; has experienced family violence committed by the primary applicant.

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

- (4) This subclause covers a person if:
 - (a) the person is an applicant for a Subclass 887 visa; and
 - (b) the person is a member of the family unit of a person covered by subclause (3).

887.226

- (1) Each person:
 - (a) who is a member of the family unit of the applicant; and
 - (b) who is not an applicant for a Subclass 887 visa;satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (2) Each person:
 - (a) who was, at the time of application, a member of the family unit of the applicant but is no longer a member of the family unit of the applicant; and
 - (b) who is a member of the family unit of a person covered by subclause 887.225(3) or (4); and
 - (c) who is not an applicant for a Subclass 887 visa;satisfies public interest criteria 4001, 4002, 4003 and 4004, and satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

76 Paragraph 887.227(a) of Schedule 2

Omit “member of the family unit of the applicant”, substitute “person covered by subclause 887.225(2), (3) or (4)”.

77 Division 887.3 of Schedule 2 (note to the heading)

Repeal the note, substitute:

Note: These criteria are for applicants seeking to satisfy the secondary criteria.

78 Clause 887.321 of Schedule 2

Repeal the clause, substitute:

887.321

- (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant continues to be a member of the family unit of a person who holds a Subclass 887 visa granted on the basis of satisfying the primary criteria for the grant of the visa.

- (3) The applicant meets the requirements of this subclause if:
- (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the **primary applicant**) seeking to satisfy the primary criteria for the grant of a Subclass 887 visa, and the primary applicant has since been granted that visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made.
- (4) The applicant meets the requirements of this subclause if:
- (a) at the time of the application, the applicant was the spouse or de facto partner of a person (the **primary applicant**) seeking to satisfy the primary criteria for the grant of a Subclass 887 visa; and
 - (b) the relationship between the primary applicant and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant or with the primary applicant;
 - (iii) a dependent child of the applicant or of the primary applicant; has experienced family violence committed by the primary applicant; and
 - (d) the applicant:
 - (i) was in Australia at the time the applicant's visa application was made; or
 - (ii) entered Australia after the applicant's visa application was made; and
 - (e) the Minister has decided to refuse to grant the primary applicant the visa for reasons including that the primary applicant had engaged in conduct involving family violence (whether or not the family violence was against a person mentioned in paragraph (c)).
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of a person (the **secondary applicant**) who meets the requirements of subclause (3) or (4); and
 - (b) the applicant has made a combined application with either the secondary applicant or the primary applicant mentioned in subclause (3) or (4) (whichever applies to the secondary applicant); and
 - (c) a Subclass 887 visa has since been granted to the secondary applicant.

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

79 At the end of Division 887.3 of Schedule 2

Add:

887.325

- (1) This clause applies if the applicant (the *secondary applicant*) meets the requirements of subclause 887.321(4).
- (2) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 887 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003, 4003B, 4004, 4007, 4010, 4020 and 4021; and
 - (b) special return criteria 5001, 5002 and 5010.
- (3) Each member of the family unit of the secondary applicant who is an applicant for a Subclass 887 visa and who has turned 18 at the time of application satisfies public interest criterion 4019.
- (4) Public interest criteria 4015 and 4016 are satisfied in relation to each member of the family unit of the secondary applicant who is an applicant for a Subclass 887 visa and who has not turned 18 at the time of application.
- (5) Each member of the family unit of the secondary applicant who is not an applicant for a Subclass 887 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007 unless the Minister is satisfied that it would be unreasonable to require the member to undergo assessment in relation to that criterion.

80 In the appropriate position in Schedule 13

Insert:

Part 141—Amendments made by the Migration Amendment (Family Violence Provisions for Skilled Visa Applications) Regulations 2024

14101 Operation of amendments

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Family Violence Provisions for Skilled Visa Applications) Regulations 2024* apply in relation to an application for a visa:

- (a) made, but not finally determined, before the commencement of that Schedule; or
- (b) made on or after that commencement.

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