



Migration Amendment (**Substituted Subclass 600 Visa Exemptions**) Regulations 2025

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

6 March 2025

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 (Substituted Subclass 600 Visa Exemptions) Regulations 2025*.

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	Immediately after the commencement of the <i>Migration Amendment (Family Violence Provisions and Other Measures) Regulations 2024</i> .	17 December 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Paragraph 1124A(3)(bc) of Schedule 1

Repeal the paragraph, substitute:

- (bc) An applicant seeking to satisfy the primary criteria must be:
 - (i) an aged parent; or
 - (ii) the holder of a substituted Subclass 600 visa at the time of application.

2 Paragraph 1130A(3)(cb) of Schedule 1

Repeal the paragraph, substitute:

- (cb) An applicant seeking to satisfy the primary criteria must be:
 - (i) an aged parent; or
 - (ii) the holder of a substituted Subclass 600 visa at the time of application.

3 Paragraph 1221A(3)(cb) of Schedule 1

Repeal the paragraph, substitute:

- (cb) An applicant seeking to satisfy the primary criteria must be:
 - (i) an aged parent; or
 - (ii) the holder of a substituted Subclass 600 visa at the time of application.

4 In the appropriate position in Schedule 13

Insert:

Part 152—Amendments made by the Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025

15201 Operation of amendments

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025* apply in relation to an application for a visa made on or after the commencement of that Schedule.

EXPLANATORY STATEMENT

Issued by the Minister for Immigration and Multicultural Affairs

Migration Act 1958

Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act. Further details of the Amending Regulations are set out in Attachment A.

In addition, subsection 31(3) of the Migration Act provides that the regulations may prescribe criteria for visas. Paragraph 46(1)(b) of the Migration Act provides that a visa application is valid only if it satisfies the criteria and requirements prescribed in the regulations. Subsection 46(3) of the Migration Act provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application.

The *Migration Regulations 1994* (the Migration Regulations) were amended on 17 December 2024 by the *Migration Amendment (Family Violence and Other Measures) Regulations 2024* to provide that applicants for the following classes of visa:

- Contributory Aged Parent (Residence) (Class DG) visa;
- Aged Parent (Residence) (Class BP);
- Contributory Aged Parent (Temporary) (Class UU);

who are seeking to satisfy the primary criteria for grant of one of the relevant subclasses of visa - a Subclass 804 (Aged Parent), Subclass 864 (Contributory Aged Parent) and the Subclass 884 (Contributory Aged Parent (Temporary)) visa - must be an “aged parent” at time of application. “Aged parent” is defined in regulation 1.03 of the Migration Regulations to mean a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

The Schedule 2 criteria for the visa subclasses in the Aged Parent (Class DG, BP and UU) visas include certain criteria that relate specifically to non-citizens who hold a “substituted Subclass 600 visa”. Regulation 1.03 provides that this term means:

- a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act; or
- a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act.

The *Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025* (the Amending Regulations) amend Schedule 1 to the Migration Regulations to provide that an applicant for a Class DG, BP or UU Aged Parent visa must be either:

- an “aged parent” (as defined in regulation 1.03); or
- the holder of a substituted Subclass 600 visa at the time of application.

Consistent with the amendments made on 17 December 2024, the amendments in the Amending Regulations ensure that generally a person who seeks to satisfy primary criteria for an onshore Aged Parent visa must be an “aged parent” to make a valid visa application, but also provide access to these classes of visa for those non-citizens who hold a substituted Subclass 600 visa at time of application, and for whom certain requirements such as the “aged parent” requirement do not apply in Schedule 2 to the Migration Regulations. The amendments made by the Amending Regulations apply from the commencement of the *Migration Amendment (Family Violence and Other Measures) Regulations 2024* on 17 December 2024. This operates to ensure that holders of a substituted Subclass 600 visa continue to be eligible to apply for an Aged Parent visa in Australia on and from 17 December 2024, whether or not they also met the definition of “aged parent” at the time of application, so that they may make a valid visa application (Schedule 1) and then be considered against Schedule 2 criteria, include where there are certain concessional arrangements prescribed in Schedule 2 for the Subclass 804, 864 and 884 visas for substituted Subclass 600 visa holders (including in relation to age requirements).

The matters dealt with in the Amending Regulations are appropriate for implementation in regulations rather than by Parliamentary enactment. It has been the consistent practice of the Government of the day to provide for detailed visa criteria and conditions in the Migration Regulations rather than in the Migration Act itself. The Migration Act expressly provides for these matters to be prescribed in regulations, as can be seen in the authorising provisions. Providing for these details to be in delegated legislation rather than primary legislation gives the Government the

ability to effectively manage the operation of Australia’s visa program and respond quickly to emerging needs.

A Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Amending Regulations are compatible with human rights. A copy of this Statement is at [Attachment B](#).

The Office of Impact Analysis (OIA) was consulted prior to making the Amending Regulations, and advised that an impact analysis was not required. The OIA reference number is OIA25-09159.

No external consultation was undertaken or considered necessary in relation to the Amending Regulations as the changes are intended reflect and align with the existing arrangements in Schedule 2 to the Migration Regulations for substituted Subclass 600 visa holders, where they are not required to satisfy the “aged parent” criterion in Schedule 2 at time of application.

The Migration Regulations are exempt from sunseting pursuant to item 38A of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

The Migration Regulations are exempt from sunseting on the basis that the repeal and remaking of the Migration Regulations:

- is unnecessary as the Migration Regulations are regularly amended numerous times each year to update policy settings for immigration programs;
- would require complex and difficult to administer transitional provisions to ensure, amongst other things, the position of the many people who hold Australian visas, and similarly, there would likely be a significant impact on undecided visa and sponsorship applications; and
- would demand complicated and costly systems, training and operational changes that would impose significant strain on Government resources and the Australian public for insignificant gain, while not advancing the aims of the Legislation Act.

The Amendment Regulations will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the Legislation Act. Specifically, that Division (under section 48A) operates to automatically repeal a legislative instrument that has the sole purpose of amending or repealing another instrument. As

the Amendment Regulations will automatically repeal, they do not engage the sunseting framework under Part 4 of the Legislation Act.

The Migration Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Amending Regulations are a legislative instrument for the purposes of the Legislation Act.

The amendments commence immediately after the commencement of the *Migration Amendment (Family Violence Provisions and Other Measures) Regulations 2024*.

Further details of the Amending Regulations are set out in Attachment C.

AUTHORISING PROVISIONS

Subsection 504(1) of the *Migration Act 1958* (the Migration Act) relevantly provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

In addition, the following provisions of the Migration Act may also be relevant:

- Subsection 31(3) of the Migration Act provides that the regulations may prescribe criteria for a visa of a specified class.
- Subsection 46(1)(b) of the Migration Act provides that a visa application is valid only if it satisfies the criteria and requirements prescribed in the regulations.
- Subsection 46(3) of the Migration Act provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025

This Amendment Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Amendment Regulations

On 17 December 2024, the *Migration Amendment (Family Violence Provisions and Other Measures) Regulations 2024* (17 December 2024 regulations amendments) amended the *Migration Regulations 1994* (the Migration Regulations) to provide that applicants for an Aged Parent (Residence) visa (subclass 804), Contributory Aged Parent (Residence) visa (subclass 864) and Contributory Aged Parent (Temporary) visa (subclass 884), including substituted subclass 600 (Visitor) visa holders, who are seeking to satisfy the relevant primary criteria, must be an ‘aged parent’ (as defined in regulation 1.03 of the Migration Regulations) at the time of application, as a Schedule 1 (application validity) requirement. Applicants who are seeking to satisfy the relevant secondary criteria, are not required to meet the definition of ‘aged parent’ at the time of application.

The *Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025* (Amendment Regulations) amend the Migration Regulations to give effect to the policy intent to exempt primary applicants who are ‘substituted Subclass 600 (Visitor) visa’ holders at the time of application from being required to meet the relevant ‘aged parent’ requirement in Schedule 1 of the Migration Regulations when they apply for a Subclass 804, 864 or 884 visa.

A substituted subclass 600 (Visitor) visa as defined by Regulation 1.03, is a visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the *Migration Act 1958*.

This amendment is intended to benefit substituted subclass 600 (Visitor) visa holders by allowing them to make a valid application for an onshore Parent visa as they will be exempt from having to satisfy the relevant ‘aged parent’ criterion in the Migration Regulations.

The amendments made by the Amendment Regulations, upon commencement, will apply from 17 December 2024, when the *Migration Amendment (Family Violence Provisions and Other Measures) Regulations 2024* commenced. To clarify, those amendments apply to all Subclass 804, 864 or 884 visa applications made on or after the commencement of these Amendment Regulations

and where that applicant(s) was a substituted Subclass 600 visa holder at the time that relevant visa application was made.

These Amendment Regulations align with the existing exemption for substituted Subclass 600 visa holders from having to satisfy the relevant ‘aged parent’ criterion (among other things) in Schedule 2 to the Migration Regulations.

Human rights implications

The Amendment Regulations positively engage the following rights:

Article 17(1) of the *International Covenant on Civil and Political Rights* (ICCPR) relevantly provides that:

No one shall be subjected to arbitrary or unlawful interference with his ... family.

Article 23(1) of the ICCPR provides that:

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 3(1) of the *Convention on the Rights of the Child* (CRC) provides that:

In all actions concerning children... the best interests of the child shall be a primary consideration.

Article 10(1) of the CRC provides that:

Applications by a child or his or her parents to enter a country for the purpose of family reunification shall be dealt with in a positive, humane and expeditious manner.

The Amendment Regulations ensure that holders of a substituted Subclass 600 (Visitor) visa can continue to satisfy the primary criteria for a Parent visa even if they do not meet the requirement to be an ‘aged parent’. This promotes the right to respect for the family by enabling parents of any age whose Visitor visas were granted following favourable Ministerial Intervention to apply to remain in Australia with their children.

Conclusion

The Amendment Regulations are compatible with human rights because they promote the protection of human rights.

The Hon Tony Burke MP

Minister for Immigration and Multicultural Affairs

Details of the Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025

Section 1 Name

This section provides that the title of the Regulations is the *Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025* (the Amending Regulations).

Section 2 – Commencement

This section provides that the Amending Regulations are taken to commence immediately after the commencement of the *Migration Amendment (Family Violence And Other Measures) Regulations 2024* (17 December 2024).

Section 3 – Authority

This section provides that the instrument is made under the *Migration Act 1958* (the Migration Act).

Section 4 – Schedules

This section provides for how the amendments in the Amending Regulations operate.

Schedule 1 – Amendments

Migration Regulations 1994

Item [1] – Paragraph 1124A(3)(bc) of Schedule 1

Item 1 of Schedule 1 repeals paragraph 1124A(3)(bc) of Schedule 1 to the *Migration Regulations 1994* (the Migration Regulations) and substitutes a new provision in its place.

Former paragraph 1124A(3)(bc) of Schedule 1 to the Migration Regulations provided that an applicant seeking to satisfy the primary criteria for a Subclass 804 visa must be an aged parent. The term ‘aged parent’ is defined in regulation 1.03 to those Regulations to mean a parent who is old enough to be granted an aged pension under the *Social Security Act 1991*.

New paragraph 1124A(3)(bc) of Schedule 1 to the Migration Regulations provides that an applicant seeking to satisfy the primary criteria must be either:

- an aged parent; or
- the holder of a substituted Subclass 600 visa at the time of application.

The term “aged parent” is defined in regulation 1.03 of the Migration regulations to mean a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

Regulation 1.03 also provides that a “substituted Subclass 600 visa” means:

- a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act; or
- a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act.

Item [2] – Paragraph 1130A(3)(cb) of Schedule 1

Item 2 of Schedule 1 repeals paragraph 1130A(3)(cb) of Schedule 1 to the Migration Regulations and substitutes a new provision in its place.

Former paragraph 1130A(3)(cb) of Schedule 1 to the Migration Regulations provided that an applicant seeking to satisfy the primary criteria for a Subclass 864 visa must be an aged parent. The term ‘aged parent’ is defined in regulation 1.03 to those Regulations (see item 1, above).

New paragraph 1130A(3)(cb) of Schedule 1 to the Migration Regulations provides that an applicant seeking to satisfy the primary criteria must be either:

- an aged parent; or
- the holder of a substituted Subclass 600 visa at the time of application.

The term “aged parent” is defined in regulation 1.03 of the Migration regulations to mean a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

Regulation 1.03 also provides that a “substituted Subclass 600 visa” means:

- a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act; or
- a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act.

Item [3] – Paragraph 1221A(3)(cb) of Schedule 1

Item 3 of Schedule 1 repeals paragraph 1221A(3)(cb) of Schedule 1 to the Migration Regulations and substitutes a new provision in its place.

Former paragraph 1221A(3)(cb) of Schedule 1 to the Migration Regulations provided that an applicant seeking to satisfy the primary criteria for a Subclass 884 visa must be an aged parent. The term ‘aged parent’ is defined in regulation 1.03 to those Regulations (see item 1, above).

New paragraph 1221A(3)(cb) of Schedule 1 to the Migration Regulations provides that an applicant seeking to satisfy the primary criteria must be either:

- an aged parent; or
- the holder of a substituted Subclass 600 visa at the time of application.

The term “aged parent” is defined in regulation 1.03 of the Migration regulations to mean a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

Regulation 1.03 also provides that a “substituted Subclass 600 visa” means:

- a Subclass 600 (Visitor) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act; or
- a Subclass 676 (Tourist) visa that was granted, before 23 March 2013, following a decision by the Minister to substitute a more favourable decision under section 351 or 501J, or repealed section 417, of the Act.

Item [4] – In the appropriate position in Schedule 13

Part 152– Application of amendments made by the Migration Amendment (Substituted Subclass 600 Visa Exemptions) Regulations 2025

Item [15201] In the appropriate position in Schedule 13

This item inserts new Part 152 into Schedule 13 to the Migration Regulations to provide for the operation of the amendments made by these Amending Regulations. Schedule 13 is the location of application and transitional provisions for the amendments to the Migration Regulations.

This item inserts new clause 15201, which provides that the amendments made by items 1 to 3 of Schedule 1 to these Amending Regulations apply in relation to an application for a visa made on or after the commencement of the amendments. The effect of section 2 of the Amending Regulations (the commencement provision) is that the amendments are taken to have commenced immediately after the commencement of the *Migration Amendment (Family Violence Provisions and Other Measures) Regulations 2024* on 17 December 2024. This operates to ensure that holders of a substituted Subclass 600 visa continue to be eligible to apply for an Aged Parent visa in Australia on and from 17 December 2024, whether or not they also meet the definition of “aged parent” at the time of application, so that they may make a valid visa application (Schedule 1) and then be considered against Schedule 2 criteria, include where there are certain concessional arrangements prescribed in Schedule 2 for the Subclass 804, 864 and 884 visas for substituted Subclass 600 visa holders (including in relation to age requirements).