New Skilled Regional Visas
(Consequential Amendments) Bill 2019

No. , 2019

(Immigration, Citizenship, Migrant Services and Multicultural Affairs)

A Bill for an Act to amend the law consequential to the creation of certain visas, and for related purposes
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A Bill for an Act to amend the law consequential to 
the creation of certain visas, and for related 
purposes

The Parliament of Australia enacts:

1 Short title

This Act is the New Skilled Regional Visas (Consequential 

2 Commencement

(1) Each provision of this Act 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

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<th>Provisions</th>
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<tr>
<td>1. The whole of this Act</td>
<td>The later of:</td>
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<td>(a) the day after this Act receives the Royal Assent; and</td>
<td></td>
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<td>(b) 16 November 2019.</td>
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</table>

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 Note: This table relates only to the provisions of this Act as originally enacted.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

2. Any information in column 3 of the table is not part of this Act.

3. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments of Social Services legislation

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)
   Insert:
   
   *provisional skilled regional visa* has the same meaning as in the

2 At the end of subsection 61AA(2)
   Add:
   
   ; or (c) becomes the holder of a provisional skilled regional visa.

3 Subsection 61AA(2B)
   Omit “Paragraph (2)(b) does not apply”, substitute “Paragraphs (2)(b)
   and (c) do not apply”.

4 After subsection 61AA(2B)
   Insert:
   
   (2C) Paragraph (2)(b) does not apply in relation to an individual if at
   any time the individual has held a visa covered by paragraph (2)(c).

5 Paragraph 61AA(3)(b)
   Omit “the visa covered by paragraph (2)(a) or (b)”, substitute “the visa
   the individual holds”.

6 Paragraph 61AA(5)(d)
   Repeal the paragraph, substitute:
   
   (d) first becomes the holder of either a permanent visa or a
   provisional skilled regional visa;
Schedule 1 Amendments of Social Services legislation

Disability Services Act 1986

7 Section 21
Omit all the words after “unless the person”, substitute “is an Australian resident within the meaning of the Social Security Act 1991”.

National Disability Insurance Scheme Act 2013

8 After subparagraph 23(1)(b)(ii)
Insert:

(iiia) the holder of a provisional skilled regional visa (within the meaning of the Social Security Act 1991);

Paid Parental Leave Act 2010

9 Section 6
Insert:

provisional skilled regional visa has the same meaning as in the Social Security Act.

10 At the end of subsection 31A(1)
Add:

; or (c) becomes the holder of a provisional skilled regional visa.

11 Subsection 31A(1B)
Omit “Paragraph (1)(b) does not apply”, substitute “Paragraphs (1)(b) and (c) do not apply”.

12 After subsection 31A(1B)
Insert:

(1C) Paragraph (1)(b) does not apply in relation to a person if at any time the person has held a visa covered by paragraph (1)(c).

13 Paragraph 31A(2)(b)
Omit “the visa covered by paragraph (1)(a) or (b)”, substitute “the visa the person holds”.

New Skilled Regional Visas (Consequential Amendments) Bill 2019 No. , 2019
14 Paragraph 31A(4)(d)

Repeal the paragraph, substitute:

(d) first becomes the holder of either a permanent visa or a provisional skilled regional visa;

15 At the end of subsection 115CBA(1)

Add:

; or (c) becomes the holder of a provisional skilled regional visa.

16 Subsection 115CBA(1B)

Omit “Paragraph (1)(b) does not apply”, substitute “Paragraphs (1)(b) and (c) do not apply”.

17 After subsection 115CBA(1B)

Insert:

(1C) Paragraph (1)(b) does not apply in relation to a person if at any time the person has held a visa covered by paragraph (1)(c).

18 Paragraph 115CBA(2)(b)

Omit “the visa covered by paragraph (1)(a) or (b)”, substitute “the visa the person holds”.

19 Paragraph 115CBA(4)(d)

Repeal the paragraph, substitute:

(d) first becomes the holder of either a permanent visa or a provisional skilled regional visa;

Social Security Act 1991

20 Subsection 7(1)

Insert:

provisional skilled regional visa means:

(a) a visa referred to in the regulations under the Migration Act 1958 as a Subclass 491 (Skilled Work Regional (Provisional)) visa; or
(b) a visa referred to in the regulations under the *Migration Act 1958* as a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(c) a visa of a kind determined in an instrument under subsection (4C).

21 After subparagraph 7(2)(b)(ii)

Insert:

(iiia) the holder of a provisional skilled regional visa;

22 Subsection 7(4B)

Omit “permanent” (wherever occurring).

23 After subsection 7(4B)

Insert:

(4C) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (c) of the definition of provisional skilled regional visa in subsection (1) if the Minister has been advised by the Minister administering the *Migration Act 1958* (the Immigration Minister) that, in the opinion of the Immigration Minister:

(a) a visa Subclass mentioned in paragraph (a) or (b) of that definition has been or will be replaced by that kind of visa; and

(b) the replacement kind of visa is intended to give the same benefits as the replaced visa Subclass.

24 Subsection 23(1)

Insert:

provisional skilled regional visa: see subsection 7(1).

25 At the end of section 43

Add:

(3A) If a person qualified for an age pension when the person was the holder of a provisional skilled regional visa, then:

(a) if the person does not apply for a permanent visa while the holder of a provisional skilled regional visa—the person
ceases to be qualified when the person is no longer the holder of a provisional skilled regional visa; and

(b) if the person applies for a permanent visa while the holder of a provisional skilled regional visa—the person ceases to be qualified if:

(i) the permanent visa has been refused and the application has been finally determined within the meaning of the *Migration Act 1958*; and

(ii) the person is no longer the holder of a provisional skilled regional visa.

26 **After subsection 94(1)**

Insert:

(1A) If a person qualified for disability support pension under this section while the person was the holder of a provisional skilled regional visa, then:

(a) if the person does not apply for a permanent visa while the holder of a provisional skilled regional visa—the person ceases to be qualified when the person is no longer the holder of a provisional skilled regional visa; and

(b) if the person applies for a permanent visa while the holder of a provisional skilled regional visa—the person ceases to be qualified if:

(i) the permanent visa has been refused and the application has been finally determined within the meaning of the *Migration Act 1958*; and

(ii) the person is no longer the holder of a provisional skilled regional visa.

27 **At the end of section 95**

Add:

(3) If a person qualified for disability support pension under this section while the person was the holder of a provisional skilled regional visa, then:

(a) if the person does not apply for a permanent visa while the holder of a provisional skilled regional visa—the person ceases to be qualified when the person is no longer the holder of a provisional skilled regional visa; and
(b) if the person applies for a permanent visa while the holder of
a provisional skilled regional visa—the person ceases to be
qualified if:
   (i) the permanent visa has been refused and the application
       has been finally determined within the meaning of the
       Migration Act 1958; and
   (ii) the person is no longer the holder of a provisional
       skilled regional visa.

28 After paragraph 739A(1)(b)

   Insert:
   (c) becomes the holder of a provisional skilled regional visa; or

29 Paragraph 739A(5)(d)

   Repeal the paragraph, substitute:
   (d) first becomes the holder of either a permanent visa or a
       provisional skilled regional visa;

30 Application provisions

(1) The amendments of section 61AA of the A New Tax System (Family
     Assistance) Act 1999 made by this Schedule apply in relation to a
     person who becomes the holder of a visa before or after the
     commencement of this item.

(2) The amendments of sections 31A and 115CBA of the Paid Parental
     Leave Act 2010 made by this Schedule apply in relation to a person who
     becomes the holder of a visa before or after the commencement of this
     item.

(3) The amendments of section 739A of the Social Security Act 1991 made
     by this Schedule apply in relation to a person who becomes the holder
     of a visa before or after the commencement of this item.

31 Transitional provision

(1) This item applies in relation to any period before the commencement of
     this item during which a person:
     (a) resided in Australia; and
     (b) was the holder of a visa referred to in the regulations under
         the Migration Act 1958 as a Subclass 491 (Skilled Work
Amendments of Social Services legislation  

Schedule 1

Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

(2) The period is taken to be a period in which the person was an Australian resident for the purposes of determining the following:

(a) whether the person has 10 years qualifying Australian residence within the meaning of subsection 7(5) of the Social Security Act 1991;
(b) the person’s current period as an Australian resident within the meaning of the Social Security Act 1991;
(c) whether the person is subject to a newly arrived resident’s waiting period within the meaning of the Social Security Act 1991 and, if so, the duration of that period;
(d) the period the person has been an Australian resident for the purposes of paragraph 43(1A)(d) or subparagraph 315(1)(d)(ii) or 500(1)(d)(ii) of the Social Security Act 1991;
(e) the person’s period of Australian working life residence for the purposes of section 1221 of the Social Security Act 1991 or section 16 of the Social Security (International Agreements) Act 1999;
(f) whether the person is subject to a newly arrived resident’s waiting period within the meaning of the Farm Household Support Act 2014 and, if so, the duration of that period.

(3) The person is taken to have been an Australian resident during the period for the purposes of the following provisions of the Social Security Act 1991:

(a) paragraph 43(1A)(c);
(b) subparagraphs 94(1)(e)(i) and (iii);
(c) subparagraphs 95(1)(c)(i) and (iii);
(d) subparagraph 315(1)(d)(i);
(e) paragraphs 540A(2)(a) and (c);
(f) paragraphs 593(1C)(a) and (c);
(g) subparagraph 1061PAA(1)(c)(i);
(h) subsection 1220(1);
(i) subsection 1220B(2).
Schedule 2—Amendment of the Higher Education Support Act 2003

Higher Education Support Act 2003

1 Paragraph 36-10(2)(c)

After “holder”, insert “, or a provisional skilled regional visa holder,”.

2 Subsection 36-10(2A)

Omit “subparagraph”, substitute “paragraph”.

3 Paragraph 104-5(1)(c)

After “holder”, insert “, or a provisional skilled regional visa holder,”.

4 Subclause 1(1) of Schedule 1

Insert:

provisional skilled regional visa holder means the holder (within the meaning of the Migration Act 1958) of:

(a) a visa referred to in the regulations under that Act as a Subclass 491 (Skilled Work Regional (Provisional)) visa; or

(b) a visa referred to in the regulations under that Act as a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa; or

(c) a visa of a kind determined in an instrument under subclause (4).

5 At the end of clause 1 of Schedule 1

Add:

(4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (c) of the definition of provisional skilled regional visa holder in subclause (1) if the Minister has been advised by the Minister administering the Migration Act 1958 (the Immigration Minister) that, in the opinion of the Immigration Minister:
(a) a visa Subclass mentioned in paragraph (a) or (b) of that definition has been or will be replaced by that kind of visa; and
(b) the replacement kind of visa is intended to give the same benefits as the replaced visa Subclass.

6 Application provision

The amendments of sections 36-10 and 104-5 of the Higher Education Support Act 2003 made by this Schedule apply in relation to any unit of study with a census date that is on or after the commencement of this item (whether the unit of study is part of a course of study commenced before or after that day).
Schedule 3—Amendment of the Fair Entitlements Guarantee Act 2012

Fair Entitlements Guarantee Act 2012

1 Paragraph 10(1)(g)

Omit “or, under the Migration Act 1958, the holder of a permanent visa or a special category visa”, substitute “or the holder (within the meaning of the Migration Act 1958) of a visa of a kind mentioned in subsection (3)’’.

2 At the end of section 10

Add:

Visas

(3) For the purposes of paragraph (1)(g), the kinds of visa are the following:

(a) a permanent visa (within the meaning of the Migration Act 1958);
(b) a special category visa (within the meaning of the Migration Act 1958);
(c) a visa referred to in the regulations under the Migration Act 1958 as a Subclass 491 (Skilled Work Regional (Provisional)) visa;
(d) a visa referred to in the regulations under the Migration Act 1958 as a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa;
(e) a visa of a kind determined in an instrument under subsection (4).

(4) The Minister may, by legislative instrument, determine a kind of visa for the purposes of paragraph (3)(e) if the Minister has been advised by the Minister administering the Migration Act 1958 (the Immigration Minister) that, in the opinion of the Immigration Minister:

(a) a visa Subclass mentioned in paragraph (3)(c) or (d) has been or will be replaced by that kind of visa; and
(b) the replacement kind of visa is intended to give the same benefits as the replaced visa Subclass.

3 Application provision

The amendment of paragraph 10(1)(g) of the *Fair Entitlements Guarantee Act 2012* made by this Schedule applies in relation to the end of a person’s employment, whether the employment ends before or after the commencement of this item.