



Australian Government
**Department of Immigration
and Border Protection**

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PART 1 - Public interest criteria [clause 4001 to clause 4022]

PART 1—Public Interest Criteria [PIC]

4001

Either:

- (a) the person satisfies the Minister that the person passes the character test; or
- (b) the Minister is satisfied, after appropriate inquiries, that there is nothing to indicate that the person would fail to satisfy the Minister that the person passes the character test; or
- (c) the Minister has decided not to refuse to grant a visa to the person despite reasonably suspecting that the person does not pass the character test; or
- (d) the Minister has decided not to refuse to grant a visa to the person despite not being satisfied that the person passes the character test.

4002

The applicant is not assessed by the [Australian Security Intelligence Organisation](#) to be directly or indirectly a risk to security, within the meaning of section 4 of the [Australian Security Intelligence Organisation Act 1979](#).

4003

The applicant:

- (a) is not determined by the [Foreign Minister](#), or a person authorised by the Foreign Minister, to be a person whose presence [in Australia](#) is, or would be, contrary to Australia's foreign policy interests; and
- (b) is not determined by the [Foreign Minister](#), or a person authorised by the Foreign Minister, to be a person whose presence [in Australia](#) may be directly or indirectly associated with the [proliferation of weapons of mass destruction](#); and
- (c) either:
 - (i) is not declared under paragraph 6(b) or 6A(1)(b), (2)(b), (4)(b), (5)(b), (8)(b) or (9)(b) of the [Autonomous Sanctions Regulations 2011](#) for the purpose of preventing the person from travelling to, [entering](#) or [remaining in Australia](#); or

(ii) if the applicant is declared — is a person for whom the [Foreign Minister](#) has waived the operation of the declaration in accordance with regulation 19 of the [Autonomous Sanctions Regulations 2011](#).

4003A

The applicant is not determined by the [Foreign Minister](#), or a person authorised by the Foreign Minister, to be a person whose presence [in Australia](#) may be directly or indirectly associated with the [proliferation of weapons of mass destruction](#).

4003B


The Minister has not determined that there is an unreasonable risk of an unwanted transfer of critical technology by the applicant.

4004

The applicant does not have outstanding debts to the Commonwealth unless the Minister is satisfied that appropriate arrangements have been made for payment.

4005

(1) The applicant:

(aa) if the applicant is in a class of persons specified by the Minister in an  instrument in writing for this paragraph:

(i) must undertake any medical assessment specified in the instrument; and

(ii) must be assessed by the person specified in the instrument;

unless a [Medical Officer of the Commonwealth](#) decides otherwise; and

(ab) must comply with any request by a [Medical Officer of the Commonwealth](#) to undertake a medical assessment; and

(a) is free from tuberculosis; and

(b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health [in Australia](#) or a danger to the Australian community; and

(c) is free from a disease or condition in relation to which:

(i) a person who has it would be likely to:

(A) require health care or [community services](#); or

(B) meet the medical criteria for the provision of a [community service](#);

during the period described in subclause (2); and

(ii) the provision of the health care or [community services](#) would be likely to:

(A) result in a significant cost to the Australian community in the areas of health care and community services; or

(B) prejudice the access of an Australian citizen or [permanent resident](#) to health care or community services;

regardless of whether the health care or community services will actually be used in connection with the applicant; and

(d) if the applicant is a person from whom a [Medical Officer of the Commonwealth](#) has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence [in Australia](#) for a follow-up medical assessment — has provided the undertaking.

(2) For subparagraph (1)(c)(i), the period is:

(a) for an application for a [permanent visa](#) — the period commencing when the application is made; or

(b) for an application for a [temporary visa](#):

(i) the period for which the Minister intends to grant the visa; or

(ii) if the visa is of a subclass specified by the Minister in an [instrument in writing](#) for this subparagraph — the period commencing when the application is made.

(3) If:


(a) the applicant applies for a [temporary visa](#); and

(b) the subclass being applied for is not specified by the Minister in an instrument in writing made for subparagraph (2)(b)(ii);

the reference in sub-subparagraph (1)(c)(ii)(A) to health care and community services does not include the health care and community services specified by the Minister in an [instrument in writing](#) made for this subclause.

4007

(1) The applicant:

(aa) if the applicant is in a class of persons specified by the Minister in an  instrument in writing for this paragraph:

(i) must undertake any medical assessment specified in the instrument; and

(ii) must be assessed by the person specified in the instrument;

unless a [Medical Officer of the Commonwealth](#) decides otherwise; and

(ab) must comply with any request by a [Medical Officer of the Commonwealth](#) to undertake a medical assessment; and

(a) is free from tuberculosis; and

(b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health [in Australia](#) or a danger to the Australian community; and

(c) subject to subclause (2) — is free from a disease or condition in relation to which:

(i) a person who has it would be likely to:

- (A) require health care or [community services](#); or
 - (B) meet the medical criteria for the provision of a [community service](#);
- during the period described in subclause (1A); and

(ii) the provision of the health care or [community services](#) would be likely to:

- (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or [permanent resident](#) to health care or community services;
- regardless of whether the health care or community services will actually be used in connection with the applicant; and

(d) if the applicant is a person from whom a [Medical Officer of the Commonwealth](#) has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence [in Australia](#) for a follow-up medical assessment — has provided the undertaking.

(1A) For subparagraph (1)(c)(i), the period is:

- (a) for an application for a [permanent visa](#) — the period commencing when the application is made; or
- (b) for an application for a [temporary visa](#):
 - (i) the period for which the Minister intends to grant the visa; or
 - (ii) if the visa is of a subclass specified by the Minister in an [instrument in writing](#) for this subparagraph — the period commencing when the application is made.

(1B) If:

- (a) the applicant applies for a [temporary visa](#); and
- (b) the subclass being applied for is not specified by the Minister in an instrument in writing made for subparagraph (1A)(b)(ii);

the reference in sub-subparagraph (1)(c)(ii)(A) to health care and community services does not include the health care and community services specified by the Minister in an instrument in writing made for this subclause.

(2) The Minister may waive the requirements of paragraph (1)(c) if.

- (a) the applicant satisfies all other criteria for the grant of the visa applied for; and
- (b) the Minister is satisfied that the granting of the visa would be unlikely to result in:
 - (i) undue cost to the Australian community; or
 - (ii) undue prejudice to the access to health care or [community services](#) of an Australian citizen or [permanent resident](#).

4009

The applicant:

- (a) intends to live permanently [in Australia](#); and
- (b) if the applicant seeks [entry](#) to Australia as a [member of the family unit](#), also satisfies the Minister that the applicant could obtain support [in Australia](#) from other [members of the family](#)

unit.

4010

If the applicant seeks to [remain in Australia](#) permanently, or temporarily for longer than 12 months, the applicant is likely to become established [in Australia](#) without undue personal difficulty and without imposing undue difficulties or costs on the Australian community.

4011

(1) If the applicant is affected by the risk factor specified in subclause (2), the applicant satisfies the Minister that, having regard to the applicant's circumstances in the applicant's country of usual residence, there is very little likelihood that the applicant will remain after the expiry of any period during which the applicant might be authorised to remain after [entry](#).

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

(a) during the period of 5 years immediately preceding the application, the applicant has applied for a visa for the purpose of permanent residence [in Australia](#); or

(b) the applicant has all the [characteristics](#) of a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph.

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

(a) from movement records kept by [Immigration](#) about persons who have [remained in Australia](#) after expiry of the period during which each person was authorised to [remain in Australia](#) under the visa with which he or she last [entered Australia](#); and

(b) having regard to one or more of the characteristics mentioned in subclause (3).

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

(a) nationality;

(b) marital or relationship status;

(c) age;

(d) sex;

(e) occupation;

(f) the class of visa currently applied for;

(g) the place of lodgement or posting of the application for that visa.

4012

In the case of an applicant:

- (a) who has not turned 18; and
- (b) whose intended stay [in Australia](#) will not be in the company of either or both of his or her [parents](#) or [guardians](#); and
- (c) whose application expresses an intention to visit, or stay with, a person [in Australia](#) who is not

a relative of the applicant; and

- (d) who is not a member of an organised tour and for whom no adequate maintenance and support arrangements have been made for the total period of stay [in Australia](#);

an undertaking to provide accommodation for, and to be responsible for the support and general welfare of, the applicant during the applicant's stay [in Australia](#) is given to the Minister by a person who, in the reasonable belief of the Minister, is of good character.

4012A

In the case of an applicant who has not turned 18:

- (a) the application expresses a genuine intention to reside [in Australia](#) with a person who:
 - (i) is a [parent](#) of the applicant or a person who has [custody](#) of the applicant; or
 - (ii) is:
 - (A) a [relative](#) of the applicant; and
 - (B) nominated by a [parent](#) of the applicant or a person who has [custody](#) of the applicant; and
 - (C) aged at least 21; and
 - (D) of good character; or
- (b) a signed statement is given to the Minister by the [education provider](#) for the course in which the applicant is enrolled confirming that appropriate arrangements have been made for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:
 - (i) confirmation of enrolment; or
 - (ii) AASES form;
 plus 7 days after the end of that period; or
- (c) if the applicant is a [Foreign Affairs student](#) or a [Defence student](#), appropriate arrangements for the applicant's accommodation, support and general welfare have been approved by:
 - (i) in the case of a [Foreign Affairs student](#) the Foreign Minister; and
 - (ii) in the case of a [Defence student](#) —the Defence Minister.

4013

(1) If the applicant is affected by a risk factor mentioned in subclause (1A), (2), (2A) or (3):

(a) the application is made more than 3 years after the cancellation of the visa or the determination of the Minister, as the case may be, referred to in the subclause that relates to the applicant; or

(b) the Minister is satisfied that, in the particular case:

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

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

justify the granting of the visa within 3 years after the cancellation or determination.

(1A) A person is affected by a risk factor if a visa previously held by the person was cancelled:

(a) under section 109, paragraph 116(1)(d), subsection 116(1AA) or (1AB) or section 133A of the Act; or

(b) under section 128 of the Act because the Minister was satisfied that the ground mentioned in paragraph 116(1)(d) of the Act applied to the person; or

(c) under section 133C of the Act because the Minister was satisfied that the ground mentioned in paragraph 116(1)(d) or subsection 116(1AA) or (1AB) of the Act applied to the person.

(2) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 116, 128 or 133C of the Act:

(a) because the person was found by [Immigration](#) to have worked without authority; or

(b) if the visa was of a subclass specified in [Part 2](#) of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass; or

(c) if the visa was a [Subclass 773 \(Border\) visa](#) and, at the time of grant of the visa, the person was apparently eligible for a [substantive visa](#) of a subclass specified in Part 2 of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass of [substantive visa](#); or

(ca) because the person held a [student visa](#) and the Minister was satisfied that a ground mentioned in paragraph 116(1)(fa) of the Act applied to the person; or

(d) because the Minister was satisfied that a ground prescribed by paragraph 2.43(1)(ea), (i), (ia), (j), (k), (ka), (kb), (kc), (m), (na), (o), (oa), (ob), (s) or (t) applied to the person.

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

(3) A person is affected by a risk factor if a visa previously held by the person was cancelled because the Minister was satisfied that a ground mentioned in paragraph 116(1)(e) of the Act applied to the person.

4014

- (1) If the applicant is affected by the risk factor specified in subclause (4):
- (a) the application is made more than 3 years after the [departure](#) of the person from Australia referred to in that subclause; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or
 - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an [Australian permanent resident](#) or an [eligible New Zealand citizen](#);justify the granting of the visa within 3 years after the [departure](#).
- (4) Subject to subclause (5), a person is affected by a risk factor if the person [left Australia](#) as:
- (a) an [unlawful non-citizen](#); or
 - (b) the holder of a [Bridging C \(Class WC\)](#), [Bridging D \(Class WD\)](#) or [Bridging E \(Class WE\)](#) visa.
- (5) Subclause (4) does not to apply to a person if:
- (a) the person [left Australia](#) within 28 days after a [substantive visa](#) held by the person ceased to be in effect; or
 - (b) a [bridging visa](#) held by the person at the time of [departure](#) was granted:
 - (i) within 28 days after a [substantive visa](#) held by the person ceased to be in effect; or
 - (ii) while the person held another bridging visa granted:
 - (A) while the person held a [substantive visa](#); or
 - (B) within 28 days after a [substantive visa](#) held by the person ceased to be in effect.

4015

The Minister is satisfied of 1 of the following:

- (a) the law of the additional applicant's [home country](#) permits the removal of the additional applicant;
- (b) each person who can lawfully determine where the additional applicant is to live consents to the grant of the visa;
- (c) the grant of the visa would be consistent with any [Australian child order](#) in force in relation to the additional applicant.

4016

The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.

4017

The Minister is satisfied of 1 of the following:

- (a) the law of the applicant's [home country](#) permits the removal of the applicant;
- (b) each person who can lawfully determine where the applicant is to live consents to the grant of the visa;
- (c) the grant of the visa would be consistent with any [Australian child order](#) in force in relation to the applicant.

4018

The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.

4019

- (1) The applicant has signed a statement (a [values statement](#)) in accordance with [Part 3](#).

Note: [Part 3](#) sets out further provisions relating to values statements and the requirements for this criterion.

- (2) However, if compelling circumstances exist, the Minister may decide that the applicant is not required to satisfy subclause (1).

4020

- (1) There is no evidence before the Minister that the applicant has given, or caused to be given, to the Minister, an [officer](#), the Tribunal during the review of a Part 5-reviewable decision, a [relevant assessing authority](#) or a [Medical Officer of the Commonwealth](#), a [bogus document](#) or [information that is false or misleading in a material particular](#) in relation to:

- (a) the application for the visa; or

(b) a visa that the applicant held in the period of 12 months before the application was made.

(2) The Minister is satisfied that during the period:

(a) starting 3 years before the application was made; and

(b) ending when the Minister makes a decision to grant or refuse to grant the visa;

the applicant and each [member of the family unit](#) of the applicant has not been refused a visa because of a failure to satisfy the criteria in subclause (1).

(2AA) However, subclause (2) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.

(2A) The applicant satisfies the Minister as to the applicant's identity.

(2B) The Minister is satisfied that during the period:

(a) starting 10 years before the application was made; and

(b) ending when the Minister makes a decision to grant or refuse to grant the visa;

neither the applicant, nor any [member of the family unit](#) of the applicant, has been refused a visa because of a failure to satisfy the criteria in subclause (2A).

(2BA) However, subclause (2B) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.

(3) To avoid doubt, subclauses (1) and (2) apply whether or not the Minister became aware of the [bogus document](#) or [information that is false or misleading in a material particular](#) because of information given by the applicant.

(4) The Minister may waive the requirements of any or all of paragraphs (1)(a) or (b) and subclause (2) if satisfied that:

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

(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an [Australian permanent resident](#) or an [eligible New Zealand citizen](#);

justify the granting of the visa.

(5) In this clause:

information that is false or misleading in a material particular means information that is:

(a) false or misleading at the time it is given; and

(b) relevant to any of the criteria the Minister may consider when making a decision on an application, whether or not the decision is made because of that information.

Note: For definition of [bogus document](#), see subsection 5(1) of the Act.

4021

Either:

- (a) the applicant holds a valid [passport](#) that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; and
 - (iii) is not in a class of passports specified by the Minister in an [instrument in writing](#) for this clause; or
- (b) it would be unreasonable to require the applicant to hold a [passport](#).

4022

Either:

- (a) the applicant has signed a code of behaviour that:
 - (i) has been approved by the Minister in accordance with [Part 4](#); and
 - (ii) is in effect for the subclass of visa; or
- (b) the Minister does not require the applicant to sign a code of behaviour that is in effect for the subclass of visa.

[LEGEND Comment - For amendment history, please see [Table of Amendments](#)]

