



Australian Government

Department of Immigration and Citizenship

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## Media

# Amendments to the *Migration Regulations 1994* in relation to Contributory Parent visas and split applications

## 1 July 2009 Legislation Change

### Client summary

From 1 July 2009, the Migration Regulations 1994 (the 'Regulations') are amended to prevent persons who are granted a permanent Contributory Parent category visa (Subclasses 143 and 864) from sponsoring their partner or fiancé for a Partner or Prospective Marriage visa for five years from the day of their visa grant, if they:

- were granted their permanent Contributory Parent category visa on or after 1 July 2009; and
- were in a spouse or de facto partner or fiancé relationship on or before the date their permanent Contributory Parent category visa was granted and now wish to sponsor that partner or fiancé.

This limitation may not apply in compelling circumstances which are not financially related.

### **Affected legislation**

The following provisions of the Regulations are affected:

Regulation 1.20KA has been inserted after Regulation 1.20K.

Notes under the following clauses in Schedule 2 have been amended:

- 300.222
- 309.222; and
- 821.221A

**Additional information:** There have been a number of instances in which couples seeking to migrate under the Contributory Parent category visa provisions have resorted to the split application strategy, whereby:

- only one member of a parent couple applies for and is granted a permanent Contributory Parent category visa; and
- once eligible (usually after two years of being lawfully resident in Australia), this parent subsequently sponsors their spouse (the other parent) under the partner visa category which has a much smaller Visa Application Charge (VAC).

Up until 1 July 2009, this strategy is not prohibited by migration legislation and it is being used in order to reduce the costs associated with migration under Contributory Parent category visa. However, it clearly undermines the Government's policy intent of ensuring that those parents who migrate under the Contributory Parent visa category make a contribution by means of the VAC to partially offset the significant costs of parent migration to the broader community. Contributory Parent migrants are also subject to the provision of a ten year Assurance of Support (AoS) and payment of a bond.

Furthermore, those who lodge a split application benefit by by-passing the ten year waiting period for parent visa holders to access Government benefits and assistance, whilst spouse visa holders are able to access such benefits within two years of visa grant.

Amendments are being made to information products affected by this legislative change.

**Forms:** Relevant changes have been made to partner visa forms 40SP, 47SP, and 1127 (Booklet 1 – *Partner Migration*) with Design Date (07/09).

**Instructions:** PAM3 will be amended to reflect these legislative changes.

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