

2016

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Migration Amendment (Visa  
Revalidation and Other Measures) Bill  
2016**

**No.     , 2016**

*(Immigration and Border Protection)*

**A Bill for an Act to amend the *Migration Act 1958*,  
and for related purposes**



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1     **A Bill for an Act to amend the *Migration Act 1958*,**  
2     **and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act is the *Migration Amendment (Visa Revalidation and*  
6                     *Other Measures) Act 2016*.

7     **2 Commencement**

8                     (1) Each provision of this Act specified in column 1 of the table  
9                     commences, or is taken to have commenced, in accordance with  
10                    column 2 of the table. Any other statement in column 2 has effect  
11                    according to its terms.  
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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 to 3	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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

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

### 7 **3 Schedules**

8 Legislation that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.

1 **Schedule 1—Revalidation check for certain**  
2 **visas**  
3

4 *Migration Act 1958*

5 **1 Subsection 5(1) (subparagraphs (b)(i) and (ii) of the**  
6 **definition of *visa period*)**

7 Repeal the subparagraphs, substitute:

- 8 (i) in the case of a bridging visa—when the visa ceases to  
9 be in effect otherwise than under subsection 82(3); or  
10 (ii) in the case of a visa of a kind prescribed for the  
11 purposes of subsection 96B(1) or 96E(1)—when the  
12 visa ceases to be in effect otherwise than under  
13 section 96D or 96H; or  
14 (iii) in the case of any other visa—when the visa ceases to  
15 be in effect.

16 **2 At the end of section 68**

17 Add:

18 Note: A visa that has ceased to be in effect under section 96D or 96H may  
19 come into effect again under that section.

20 **3 Subsection 82(9)**

21 Omit all the words after “in effect”.

22 **4 After Subdivision B of Division 3 of Part 2**

23 Insert:

24 **Subdivision BA—Revalidation check for certain visas**

25 **96A Definitions**

26 (1) In this Subdivision:

27 *passes a revalidation check for the visa* has the meaning given by  
28 subsection (2).





1 the Minister must, by written notice given to the person, inform the  
2 person that the visa remains in effect.

3 **96D Visa ceases to be in effect if visa holder does not complete or**  
4 **pass revalidation check**

- 5 (1) This section applies if:
- 6 (a) a person who holds a visa is required under  
7 subsection 96B(1) to complete a revalidation check for the  
8 visa within a specified period; and
  - 9 (b) the person:
    - 10 (i) does not complete that check within the specified  
11 period; or
    - 12 (ii) completes that check within the specified period but  
13 does not pass that check at a particular time (the *check*  
14 *time*).

15 *Visa ceases to be in effect*

- 16 (2) If the person is in the migration zone at the end of the specified  
17 period or at the check time, the visa will cease to be in effect if:
- 18 (a) the person leaves Australia after the end of that period or  
19 after that time; and
  - 20 (b) at the time the person leaves Australia, the person has not  
21 completed and passed a revalidation check for the visa.
- 22 (3) If the person is not in the migration zone at the end of the specified  
23 period or at the check time, the visa ceases to be in effect at the end  
24 of that period or at that time.
- 25 (4) If the person's visa ceases to be in effect under subsection (2) or  
26 (3), the Minister must, by written notice given to the person,  
27 inform the person of the cessation.

28 *Visa may come into effect again*

- 29 (5) If:
- 30 (a) a person holds a visa that has ceased to be in effect under  
31 subsection (2) or (3); and

1 (b) at a particular time during the visa period for the visa, the  
2 person passes a revalidation check for the visa;  
3 the visa comes into effect again at that time.

4 (6) If the person's visa comes into effect again under subsection (5),  
5 the Minister must, by written notice given to the person, inform the  
6 person of that matter.

7 *Other cessation provisions not limited or otherwise affected*

8 (7) This section does not limit, or otherwise affect, any other provision  
9 of this Act under which a visa ceases to be in effect.

10 Note: A person's visa may cease to be in effect under another provision of  
11 this Act. If that occurs, the visa period for the visa ends (see  
12 subparagraph (b)(ii) of the definition of *visa period* in subsection 5(1))  
13 and the person will no longer hold the visa (see section 77).

14 **96E Minister may determine that certain visa holders must complete**  
15 **revalidation check in the public interest**

16 (1) If the Minister thinks it is in the public interest to do so, the  
17 Minister may, by legislative instrument, determine that a specified  
18 class of persons holding a visa of a prescribed kind (however  
19 described) must complete a revalidation check for the visa.

20 (2) The power under subsection (1) may only be exercised by the  
21 Minister personally.

22 (3) If the Minister makes a determination under subsection (1), the  
23 Minister must cause to be laid before each House of the Parliament  
24 a statement that:

- 25 (a) states that the Minister has made the determination; and  
26 (b) sets out the Minister's reasons for making the determination,  
27 referring in particular to the Minister's reasons for thinking  
28 that the making of the determination is in the public interest.

29 (4) A statement under subsection (3) must not include:

- 30 (a) the name of any person included in the specified class of  
31 persons; or  
32 (b) any information that may identify such a person; or

- 1 (c) if the Minister thinks that it would not be in the public  
 2 interest to publish the name of another person connected in  
 3 any way with the determination—the name of that other  
 4 person or any information that may identify that other person.
- 5 (5) A statement under subsection (3) is to be laid before each House of  
 6 the Parliament within 15 sitting days of that House after:
- 7 (a) if the determination under subsection (1) is made between  
 8 1 January and 30 June (inclusive) in a year—1 July in that  
 9 year; or
- 10 (b) if the determination under subsection (1) is made between  
 11 1 July and 31 December (inclusive) in a year—1 January in  
 12 the following year.

13 **96F Visa holders to be notified of Minister’s determination**

- 14 (1) This section applies if the Minister makes a determination under  
 15 subsection 96E(1) that a specified class of persons holding a  
 16 particular visa must complete a revalidation check for the visa.
- 17 (2) As soon as practicable after the determination is made, the Minister  
 18 must give a written notice that complies with subsection (3) to each  
 19 person who holds such a visa and is included in the specified class  
 20 of persons.
- 21 (3) The notice under subsection (2) must:
- 22 (a) state that the determination has been made; and
- 23 (b) specify how the person is to complete the revalidation check  
 24 for the visa; and
- 25 (c) set out the effect of sections 96G and 96H.

26 **96G Minister to notify visa holders that visa remains in effect in**  
 27 **certain circumstances**

- 28 If:
- 29 (a) the Minister makes a determination under subsection 96E(1)  
 30 that a specified class of persons holding a particular visa  
 31 must complete a revalidation check for the visa; and
- 32 (b) a person who:
- 33 (i) holds such a visa; and

- 1 (ii) is included in the specified class of persons;  
2 passes a revalidation check for the visa at a particular time  
3 during the visa period for the visa; and  
4 (c) at that time, the visa is in effect;  
5 the Minister must, by written notice given to the person, inform the  
6 person that the visa remains in effect.

7 **96H Visa ceases to be in effect if Minister determines that certain**  
8 **visa holders must complete revalidation check in the**  
9 **public interest**

- 10 (1) This section applies if:  
11 (a) the Minister makes a determination under subsection 96E(1)  
12 that a specified class of persons holding a particular visa  
13 must complete a revalidation check for the visa; and  
14 (b) a person who holds such a visa is included in the specified  
15 class of persons.

16 *Visa ceases to be in effect*

- 17 (2) If the person is in the migration zone at the time the determination  
18 is made, the visa will cease to be in effect if:  
19 (a) the person leaves Australia after that time; and  
20 (b) at the time the person leaves Australia, the person has not  
21 completed and passed a revalidation check for the visa.  
22 (3) If the person is not in the migration zone at the time the  
23 determination is made, the visa ceases to be in effect at that time.  
24 (4) If the person's visa ceases to be in effect under subsection (2) or  
25 (3), the Minister must, by written notice given to the person,  
26 inform the person of the cessation.

27 *Visa may come into effect again*

- 28 (5) If:  
29 (a) a person holds a visa that has ceased to be in effect under  
30 subsection (2) or (3); and  
31 (b) at a particular time during the visa period for the visa, the  
32 person passes a revalidation check for the visa;

1 the visa comes into effect again at that time.

2 (6) If the person's visa comes into effect again under subsection (5),  
3 the Minister must, by written notice given to the person, inform the  
4 person of that matter.

5 *Other cessation provisions not limited or otherwise affected*

6 (7) This section does not limit, or otherwise affect, any other provision  
7 of this Act under which a visa ceases to be in effect.

8 Note: A person's visa may cease to be in effect under another provision of  
9 this Act. If that occurs, the visa period for the visa ends (see  
10 subparagraph (b)(ii) of the definition of *visa period* in subsection 5(1))  
11 and the person will no longer hold the visa (see section 77).

12 **96J Visa holders may be required to complete revalidation check for**  
13 **visa multiple times etc.**

14 A person who holds a visa may be required under this Subdivision  
15 to complete a revalidation check for the visa:

- 16 (a) at any time during the visa period for the visa (including at a  
17 time when the visa is not in effect); and  
18 (b) more than once during the visa period for the visa.

19 **5 Paragraph 495A(3)(a)**

20 Omit "and AC of Division 3 of Part 2 (other than section 48B)",  
21 substitute ", AC and BA of Division 3 of Part 2 (other than sections 48B  
22 and 96E)".

23 **6 Application provision**

24 The amendments made by this Schedule apply in relation to visas  
25 granted before, on or after the commencement of this item.

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## **Schedule 2—Cessation of visas that are not in effect**

### ***Migration Act 1958***

#### **1 Subsection 68(4)**

Omit “effect again”, substitute “effect for the first time or a subsequent time”.

#### **2 After section 82**

Insert:

#### **82A Cessation of visas that are not in effect**

If:

- (a) a non-citizen holds a visa at a particular time; and
- (b) the visa is not in effect at that time; and
- (c) the visa would, if it were in effect at that time, cease to be in effect under section 82 (other than subsection 82(8)), 173 or 174;

then the visa is taken to have ceased to be in effect under that section at that time.

Note 1: Not all visas come into effect at the time of grant (see section 68).

Note 2: Some visas may cease to be in effect, and come into effect again, during the visa period (see, for example, sections 96D and 96H).

#### **3 At the end of subsection 173(1)**

Add:

Note: For visas that are not in effect, see section 82A.

#### **4 At the end of section 174**

Add:

Note: For visas that are not in effect, see section 82A.

1 **5 Application provision**

2           The amendments made by this Schedule apply in relation to visas  
3           granted before, on or after the commencement of this item.

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## Schedule 3—Immigration clearance

3

### *Migration Act 1958*

4

#### **1 Paragraph 32(2)(a)**

5

Repeal the paragraph, substitute:

6

(a) a non-citizen who satisfies subsection (2A); or

7

#### **2 After subsection 32(2)**

8

Insert:

9

(2A) A non-citizen satisfies this subsection if the non-citizen:

10

(a) is a New Zealand citizen and holds a New Zealand passport that is in force; and

11

12

(b) has done either or both of the following as required by one or more officers or authorised systems:

13

14

(i) presented his or her passport to an officer or an authorised system;

15

16

(ii) provided to an authorised system one or more personal identifiers; and

17

18

(c) is neither a behaviour concern non-citizen nor a health concern non-citizen.

19

20

#### **3 Subsection 32(3)**

21

Omit “subparagraph (2)(a)(i)”, substitute “subparagraph (2A)(b)(i)”.

22

#### **4 Subsection 166(1)**

23

After “delay”, insert “, do any one or more of the following things as required by one or more clearance authorities”.

24

25

#### **5 Subparagraph 166(1)(a)(ii)**

26

Omit “person; and”, substitute “person;”.

27

#### **6 Paragraph 166(1)(b)**

28

Omit “regulations; and”, substitute “regulations;”.



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**7 Paragraph 166(1)(c)**

Omit “authority; and”, substitute “authority;”.

**8 Paragraph 166(1)(d)**

Repeal the paragraph, substitute:

- (d) provide to an authorised system one or more personal identifiers.

**9 Subsections 166(3) and (4)**

Repeal the subsections, substitute:

*Complying with paragraph (1)(a) or (b)*

- (3) If a person is required to do a thing mentioned in paragraph (1)(a) or (b), then, subject to section 167, the person must do that thing in the prescribed way.
- (4) If a person is required to do a thing mentioned in subparagraph (1)(a)(i), the person is taken to have done that thing if a clearance officer knows or reasonably believes that the person is an Australian citizen.

**10 Paragraph 167(3)(b)**

Repeal the paragraph, substitute:

- (b) the person is required to do a thing mentioned in paragraph 166(1)(a), (b), (c) or (d); and
- (c) with the permission of a clearance officer, the person does that thing on the vessel on which the person travels to Australia at a time before entering Australia;

**11 Subsection 167(4)**

Repeal the subsection, substitute:

- (4) If:
- (a) a person proposes to travel to Australia on a pre-cleared flight; and
- (b) the person is required to do a thing mentioned in paragraph 166(1)(a), (b), (c) or (d); and

1 (c) the person does that thing before beginning the pre-cleared  
2 flight;  
3 the person is taken to have complied with section 166.

4 **12 Section 170 (heading)**

5 Repeal the heading, substitute:

6 **170 Persons on overseas vessels to present certain evidence of**  
7 **identity etc.**

8 **13 Subsection 170(1)**

9 Omit all the words before paragraph (a), substitute:

10 (1) A person, whether a citizen or a non-citizen, who travels, or  
11 appears to intend to travel, on an overseas vessel from a port to  
12 another port must, without unreasonable delay, do any one or more  
13 of the following things as required by one or more clearance  
14 authorities:

15 **14 Paragraph 170(1)(a)**

16 Omit “to present”, substitute “present”.

17 **15 Paragraph 170(1)(a)**

18 Omit “identity; and”, substitute “identity;”.

19 **16 Paragraph 170(1)(b)**

20 Omit “to provide”, substitute “provide”.

21 **17 Paragraph 170(1)(b)**

22 Omit “regulations; and”, substitute “regulations;”.

23 **18 Paragraph 170(1)(c)**

24 Omit “to comply”, substitute “comply”.

25 **19 Paragraph 170(1)(c)**

26 Omit “authority; and”, substitute “authority;”.

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**20 Paragraph 170(1)(d)**

Repeal the paragraph, substitute:

- (d) provide to an authorised system one or more personal identifiers.

**21 Subsection 170(2)**

Repeal the subsection, substitute:

- (2) If a person is required to do a thing mentioned in paragraph (1)(a) or (b), the person must do that thing in the prescribed way.

**22 Paragraph 171(a)**

Repeal the paragraph, substitute:

- (a) required to present evidence of a kind referred to in paragraph 166(1)(a) cannot present that evidence; and

**23 Subsection 172(3)**

Omit “if the person”, substitute “if”.

**24 Paragraph 172(3)(a)**

Before “is with”, insert “the person”.

**25 Paragraph 172(3)(b)**

Repeal the paragraph, substitute:

- (b) either of the following applies:
- (i) the person’s visa is cancelled;
  - (ii) if the person is required to do a thing mentioned in paragraph 166(1)(a), (b), (c) or (d)—the person refuses or is unable to do that thing.

**26 Subsection 175(1)**

Omit all the words before paragraph (a), substitute:

- (1) A person, whether a citizen or a non-citizen, who is on board, or about to board, a vessel that is due to depart from a place in Australia to a place outside Australia (whether or not after calling at other places in Australia) must, without unreasonable delay, do

1 any one or more of the following things as required by one or more  
2 clearance authorities:

3 **27 Subparagraph 175(1)(a)(ii)**

4 Omit “Australia; and”, substitute “Australia;”.

5 **28 Paragraph 175(1)(b)**

6 Omit “regulations; and”, substitute “regulations;”.

7 **29 Paragraph 175(1)(c)**

8 Omit “authority; and”, substitute “authority;”.

9 **30 Paragraph 175(1)(d)**

10 Repeal the paragraph, substitute:

11 (d) provide to an authorised system one or more personal  
12 identifiers.

13 **31 Subsection 175(2)**

14 Repeal the subsection, substitute:

15 (2) If a person is required to do a thing mentioned in paragraph (1)(a)  
16 or (b), the person must do that thing in the prescribed way.

17 **32 Paragraph 190(1)(b)**

18 Repeal the paragraph, substitute:

19 (b) did either of the following:

20 (i) bypassed, attempted to bypass, or appeared to attempt to  
21 bypass, immigration clearance;

22 (ii) went to a clearance authority but did not do, or was not  
23 able to do, a thing mentioned in subsection 166(1) that  
24 the person was required to do by a clearance authority.

25 **33 Subparagraph 271(1)(j)(i)**

26 Repeal the subparagraph, substitute:

27 (i) failed to produce to an officer or authorised entry  
28 system a passport when required to do so by that officer  
29 or system; or

1 **34 Subparagraph 271(1)(j)(ii)**

2 After “officer”, insert “or authorised entry system”.

3 **35 Subsection 271(4)**

4 Insert:

5 *authorised entry system* means an authorised system for the  
6 purposes of:

7 (a) section 32, 166, 170 or 172; or

8 (b) paragraph (b) of the definition of *clearance authority* in  
9 section 165.