

Migration (1993) Regulations (Amendment) 1993 No. 29

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 29

Issued by the Authority of the Minister for Immigration, Local Government and Ethnic Affairs

Migration Act 1958

Migration (1993) Regulations (Amendment)

Section 181 of the Migration Act 1958 (the Act) provides that the Governor-General may make regulations for the purposes of the Act. In addition section 166JF of the Act provides for the remuneration of full-time members of the Refugee Review Tribunal.

In addition, the Migration (Laws) Amendment Act (No. 2) 1992 inserts a new subsection 4(1A) into the Act, commencing on 1 March 1993. Paragraph 4(1A)(b) will provide that the regulations may provide for what will be accepted as evidence of the person's English language proficiency.

Subsection 4(1) of the Acts Interpretation Act 1901 provides that where an amending Act amends a principal Act in such a way that the principal Act will confer power to make regulations then the power may be exercised before the amendments come into operation as if they had come into operation. The purpose of the Regulations is:

in regulation 1, to provide for regulation 3 to commence on 1 March 1993. This is the day on which the amendment inserting subsection 4(1A) into the Act commences and therefore is in accordance with the requirements of subsection 4(2) of the Acts Interpretation Act 1901. This regulation also provides for regulation 4 to commence retrospectively on 8 February 1993. Retrospectivity is entirely beneficial and no person will be disadvantaged. Hence retrospectivity does not contravene subsection 48(2) of the Acts Interpretation Act 1901;

in regulation 3, to prescribe the evidence of a person's English language proficiency which a person must provide to satisfy the Minister that the person has functional English; and

in regulation 4, to insert a new regulation 7.20A into the Migration Regulations to raise the remuneration and allowances of the first full-time member of the Refugee Review Tribunal ("the Tribunal") - appointed with effect from 8 February 1993 - from the remuneration and allowances equal to the minimum remuneration and allowances payable to the holder of an SES office classified as SES Band 1, as provided for in subsection 166JF(1) of the Act, to the remuneration and allowances equal to the maximum remuneration and allowances payable to the holder of an SES office classified as SES Band 1. This increase is made having regard to the first full-time member's additional administrative responsibilities in setting up the Tribunal's

operations in Melbourne and in his proposed ongoing role in the management and administration of the Melbourne office of the Tribunal over and above his role as a member of the Tribunal.