

## **Migration (1993) Regulations (Amendment) 1993 No. 169**

### **EXPLANATORY STATEMENT**

#### **STATUTORY RULES 1993 No. 169**

Issued by the Authority of the Minister for Immigration 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, not inconsistent with the Act, to prescribe all matters which are required or permitted by the Act to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the Act. In addition, section 23 of the Act enables regulations to be made providing, *inter alia*, for different classes of visas and that a person is entitled to be granted a visa of a particular class if the person satisfies all the criteria prescribed in relation to that class.

The regulations amend the prescribed criteria in relation to visas of :

Class 208 (East Timorese in Portugal (special assistance));

Class 209 (Citizens of the former Socialist Federal Republic of Yugoslavia displaced persons (special assistance));

Class 210 (Minorities of former USSR (special assistance));

Class 211 (Burmese (special assistance));

Class 212 (Sudanese (special assistance)); and

Class 213 (Displaced Burmese in Thailand (special assistance))

to provide that where an applicant is unable to meet the prescribed health criteria, the Minister may waive the health criteria provided a Commonwealth medical officer has formed the opinion that the applicant is free of tuberculosis and any other communicable disease of a fatal or serious nature and any disease or condition which is a threat to public health in Australia, and the applicant is not likely to produce offspring with such a disease or condition and would not prejudice access to health care by any Australian citizen or permanent resident, and the Minister is satisfied that grant of the visa would be unlikely to result in undue harm or cost to the Australian community.

The regulations also amend the prescribed criteria in relation to applicants who are members of the family unit of applicants for the above classes of visas as primary persons. The Minister may also waive the health criteria for applicants who are

members of the family unit of applicants who are primary persons, provided the same circumstances exist as stated above.

Details of the regulations are as follows:

Regulation 1 provides for the Migration (1993) Regulations to be amended as set out in these Regulations.

Regulation 2 provides for amendments to be made to parts 208, 209, 210, 211, 212 and 213 of Schedule 2, Chapter 1.3 (Permanent resident (refugee and humanitarian) visas and entry permits) of the Migration (1993) Regulations. These amendments have the effect of replacing as criteria to be satisfied by applicants who are primary persons in relation to visas of Classes 208, 209, 210, 211, 212 and 213, respectively, the criteria set out at clauses 4005 and 4006 of Schedule 4 of the Migration (1993) Regulations with the criteria set out at clauses 4007 and 4008. The criteria prescribed by clauses 4007 and 4008 of Schedule 4 are health criteria which may be waived by the Minister under certain circumstances.

Regulation 3 provides for an amendment to subparagraph 013.333(b)(i) of Schedule 3 (Provisions with respect to the grant of visas and entry permits included in certain groups to secondary persons) of the Migration (1993) Regulations. The effect of this amendment is to prescribe as criteria to be satisfied by applicants who are secondary persons in relation to an application for a visa of Classes 208, 209, 210, 211, 212 and 213, the criteria set out at clauses 4007 and 4008 of Schedule 4 of the Migration (1993) Regulations. These clauses prescribe health criteria which may be waived by the Minister under certain circumstances. Previously these applicants were required to meet the criteria set out at clauses 4005 and 4006, which prescribe health criteria which cannot be waived.

The regulations commence on gazettal.