

Migration (1993) Regulations (Amendment) 1993 No. 310

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 310

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 195 (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. Without limiting the generality of section 181, section 23 of the Act enables regulations to be made providing for different classes of visas and section 33 of the Act enables regulations to be made providing for different classes of entry permits.

The purpose of the Regulations is to introduce a new Part 214 - Class 214 (Cambodians (special assistance)) visa and entry permit. This new class will provide for travel to, and permanent residence in, Australia of certain Cambodian residents who are experiencing hardship as a result of the upheavals in Cambodia in recent years (see clause 214.12).

At the time of application for the grant of a Class 214 visa it will be a criterion that an applicant is usually a resident of Cambodia, is experiencing hardship as a result of upheavals in Cambodia over recent years, and has close links with Australia (see clause 214.321). An applicant will establish close links with Australia if the applicant has a parent, daughter, son, sister, brother, aunt, uncle, niece or nephew who is usually resident in Australia and who was on 1 October 1993, and continues to be, an Australian citizen or an Australian permanent resident (see paragraph 214.322(a)). Alternatively, an applicant who arrived in Australia by boat without authority between 28 November 1989 and 26 April 1991, and who, before that arrival, was usually a resident of Cambodia, will have close links with Australia if he or she was in detention under the Act for a greater part of his or her stay in Australia and subsequently returned to Cambodia (see paragraph 214.322(b)).

Applicants will be further required to have the support of a relative mentioned above, a community organisation, or another group in Australia that is accepted by the Minister as having close links with the applicant (see clauses 214.323 and 214.324).

Criteria to be satisfied at the time of decision will include the requirements that the Minister be satisfied that permanent settlement in Australia is the appropriate course for the applicant and would not be contrary to the interests of Australia (see clause 214.331), that the applicant has been resident in Cambodia for a period of 12 months immediately before the time of decision (see clause 214.332), and that the Minister be satisfied that there are compelling reasons for giving special consideration to granting

the applicant a visa (see clause 214.338). An applicant will also have to satisfy specified public interest and special re-entry criteria (see clauses 214.334 and 214.335).

The maximum number of Class 214 visas to be granted in a financial year is to be specified by Gazette Notice (see clause 214.333).

Details of the regulations are as follows:

Regulation 1 - Amendment

Provides that the Migration (1993) Regulations are amended as set out in these Regulations.

Regulation 2 - Schedule 1 (Classification of visas and entry permits)

Inserts the new Class 214 (Cambodians (special assistance)) visa and entry permit, created by these Regulations, as item 1303B in Division 1.3 - Group 1.3 (Permanent resident (refugee and humanitarian)) of Schedule 1.

Regulation 3 - Division 1.3 (New Part 214)

Inserts the new Part 214 - Class 214 (Cambodians (special assistance)) visa and entry permit in Schedule 2.

The Regulations commence on gazettal.