



Statutory Rules 1993 No. 310 ¹

Migration (1993) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 17 November 1993.

BILL HAYDEN
Governor-General

By His Excellency's Command,

NICK BOLKUS
Minister for Immigration and Ethnic Affairs

1. Amendment

1.1 The Migration (1993) Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Schedule 1 (Classification of visas and entry permits)

2.1 New item 1303B (Division 1.3—Group 1.3):

After item 1303A, insert:

“1303B 214 (Cambodians (special assistance)) 013”.

3. Schedule 2—Division 1.3 (New Part 214)

3.1 After Part 213, insert:

**“PART 214—CLASS 214 (CAMBODIANS (SPECIAL
ASSISTANCE)) VISA AND ENTRY PERMIT**

(PRIMARY PERSON)

214.1 INTRODUCTION

214.11 Group: 1.3 (permanent resident (refugee and humanitarian)).

214.12 Purpose of grant to primary persons: To authorise travel to, and permanent residence in, Australia by certain Cambodian residents who are experiencing hardship as a result of the upheavals in Cambodia in recent years.

[NOTE: For provisions relating to secondary persons, see Part 013 of Schedule 3.]

**214.2 (CAMBODIANS (SPECIAL ASSISTANCE)) VISA—
PRELIMINARY****214.21 When and where may application and grant be made?**

214.211 A Class 214 visa may be:

- (a) applied for and granted only before entry, but not at the Entry Control Point; and
- (b) granted either as a travel-only visa or as an entry visa.

214.22 Validity (visa)

214.221 Journey(s) to Australia: 1 only.

214.222 Time limit for arrival in Australia: As determined by the Minister in each particular case.

214.223 Authorised period of stay (entry visa only): Without limitation as to time.

214.3 (CAMBODIANS (SPECIAL ASSISTANCE)) VISA (BEFORE ENTRY)

[NOTE: The purpose of the grant of a Class 214 visa before entry is, first, to authorise travel to Australia and, second, to authorise entry to Australia (entry visa) or to serve on arrival as an application for a Class 214 entry permit (travel-only visa).]

214.31 Application (visa—before entry)

214.311 The application must be made in accordance with approved form 917.

[NOTE: Before an application will be considered, it must be lodged in accordance with regulation 2.13 (Act, subsection 24 (1)).]

214.32 Criteria to be satisfied at time of application (visa—before entry)

214.321 The applicant:

- (a) is usually a resident of Cambodia and is experiencing hardship in Cambodia as a result of upheavals in that country over recent years; and
- (b) has close links with Australia.

214.322 In this Part, “**close links with Australia**”, in respect of an applicant, means that:

- (a) the applicant has a parent, daughter, son, sister, brother, aunt, uncle, niece or nephew who:
 - (i) was an Australian citizen or an Australian permanent resident on 1 October 1993; and

- (ii) continues to be an Australian citizen or an Australian permanent resident; and
 - (iii) is usually resident in Australia; or
- (b) the applicant:
- (i) arrived in Australia by boat, without a visa or other authority, between 28 November 1989 and 26 April 1991; and
 - (ii) before that arrival was usually a resident of Cambodia; and
 - (iii) was in detention under the *Migration Act 1958* for a greater part of his or her stay in Australia; and
 - (iv) subsequently returned to Cambodia.

214.323 The applicant has produced a written offer of support from:

- (a) a person mentioned in paragraph 214.322 (a); or
- (b) a community organisation; or
- (c) another group in Australia that is accepted by the Minister as having close links with the applicant.

214.324 A person or a community organisation or another group referred to in clause 214.323 gives to the applicant a written undertaking addressed to the Minister that specifies assistance:

- (a) that the person or community organisation or other group will provide to the applicant, and the applicant's dependants, after their entry to Australia; and
- (b) that is acceptable to the Minister, having regard to the needs of the applicant and his or her dependants in the period of 6 months following entry to Australia;

with regard to the following matters:

- (c) food, clothing, accommodation and household goods;
- (d) personal support;
- (e) access to community and public services;
- (f) obtaining employment;
- (g) language interpretation and securing English language instruction;
- (h) community involvement and self-reliance;
- (i) reimbursing the Commonwealth for its costs (if any) in providing accommodation services to the applicant;

- (j) in the case of an applicant to whom paragraph (i) applies—reporting to Immigration on progress in the settlement of the applicant.

214.33 Criteria to be satisfied at time of decision (visa—before entry)

214.331 The Minister is satisfied that permanent settlement in Australia:

- (a) is the appropriate course for the applicant; and
- (b) would not be contrary to the interests of Australia.

214.332 The applicant has been resident in Cambodia for a period of 12 months immediately before the time of decision.

214.333 Approval of the application would not result in the number of Class 214 visas granted in a financial year exceeding the maximum number of Class 214 visas specified, by Gazette Notice, for the purposes of this clause in respect of that financial year.

214.334 The applicant satisfies public interest criteria 4001 to 4004, and 4007 to 4010.

214.335 If the applicant has previously been in Australia, the applicant satisfies special re-entry criteria 5001, 5003, 5005, 5007, 5008, 5009 and 5010.

214.336 (1) Each member of the family unit of the applicant who is an applicant for a Class 214 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004, 4009 and 4010; and
- (b) satisfies public interest criteria 4007 and 4008; and
- (c) if he or she has previously been in Australia, satisfies special re-entry criteria 5001, 5003, 5005, 5007, 5009 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Class 214 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4007 and 4008, unless the Minister is satisfied that it would be unreasonable to

require the person to undergo assessment in relation to those criteria.

214.337 If:

- (a) the family unit of the applicant includes a dependent child who is an applicant, as a secondary person, for a Class 214 visa; and
- (b) the applicant is the relevant primary person in relation to that application;

the Minister is satisfied that the grant of the visa to the child would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

214.338 The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a visa.

214.34 Conditions (visa—before entry)

214.341 Mandatory conditions: Nil.

214.342 Discretionary conditions: Any applicable conditions set out in Schedule 9.

214.4 [(Cambodians (special assistance)) visa not granted after entry]

[NOTE: Authority, before departure, for the return travel to Australia of the holder of a Class 214 entry permit (which expires on departure from Australia: Act, section 49) is provided by the grant of a Group 1.4 (resident return) visa.]

214.5 (CAMBODIANS (SPECIAL ASSISTANCE)) ENTRY PERMIT—PRELIMINARY

214.51 When and where may application and grant be made?

214.511 A Class 214 entry permit may be applied for by, and granted to, a primary person only:

- (a) at the Entry Control Point; and

- (b) if the person is the holder, as a primary person, of a Class 214 visa that was granted as a travel-only visa.

214.52 Period of validity (entry permit)

214.521 Authorised period of stay: Without limitation as to time.

214.6 (CAMBODIANS (SPECIAL ASSISTANCE)) ENTRY PERMIT (BEFORE ENTRY): As provided by regulation 2.30.

214.7 [(Cambodians (special assistance)) entry permit not granted after entry]

214.8 FEES: Nil.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 November 1993.
2. Statutory Rules 1992 No. 367 as amended by 1993 Nos. 19, 29, 88, 169, 175, 218, 235, 253, 267, 283 and 309.