

Migration (1993) Regulations (Amendment) 1993 No. 363

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 363

Issued by the Authority of the Minister for Immigration and Ethnic Affairs

Subject - 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. Without limiting the generality of section 181, sections 23 and 33 of the Act enable the Governor-General to make regulations providing for different classes of visas and entry permits. The purpose of the Regulations is:

to provide for the revocation of deportation orders signed against persons who are prima facie eligible for the grant of permanent resident status as a result of the Government's decision of 1 November 1993 to provide access to permanent residence to certain PRC nationals, certain asylum seekers, certain better qualified persons under 45 years of age and members of the family units of those persons.

to amend Class 214 (Cambodian (Special Assistance)) visas and entry permits to require that all members of the family unit of the applicant who are applicants for a Class 214 visa reside in Cambodia for 12 months immediately prior to the time of decision on the application.

to extend the period for which a Class 435 (Sri Lankan (temporary)) entry permit and a Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permit may be granted to 30 June 1994.

Details of the Regulations are set out in the Attachment.

The Regulations commence on gazettal.

ATTACHMENT

Regulation 1 - Amendment

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

Regulation 2 - Regulation 7.18 (Prescribed matters (subsection 63(1) of the Act))

Subregulation 2.1 inserts additional prescribed matters to regulation 7.18 to permit the revocation of deportation orders signed against people who are prima facie eligible for

permanent resident status as a result of the Government's decision of 1 November 1993.

The amendments cover the following groups of persons:

(i) persons who have held a PRC (temporary) visa (code number 783) granted under the Migration (1989) Regulations or a Class 437 (PRC (temporary)) entry permit, or citizens of the PRC who are shown by records kept by Immigration as being in Australia on or before 20 June 1989 and who were either in Australia or holders of a valid return visa on 1 November 1993, or members of their family units;

(ii) spouse and dependent children of holders of Class 784 (domestic protection (temporary)) entry permit who have not applied for a determination of refugee status or for a Class 784 entry permit;

(iii) persons who:

on or before 1 November 1993 were less than 45 years of age; and

were granted a visa overseas for travel to Australia on or before 12 March 1992 and used that visa to travel to Australia on or before 1 November 1993; and

on 1 November 1993 were either in Australia or holders of valid return visas; and

on or before 1 November 1993 applied for:

- a determination of refugee status; or
- a Class 435 (Sri Lankan (temporary)) or a Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permit and no decision on that application has yet been made and it appears to the Minister, on the basis of information in Departmental records, that the person meets the criteria for the grant of that class of entry permit.
- or members of their family units.

Regulation 3 - Schedule 2, Chapter 1.3 (Cambodian (Special Assistance) visa and entry permit)

Subregulation 3.1 omits clauses 214.321 and 214.322 of the Migration (1993) Regulations and substitutes a new clause 214.321 which incorporates the contents of the 2 original clauses. This amendment has no effect on the substantive operation of the Migration (1993) Regulations.

Subregulation 3.2 amends paragraph 214.323(a) of the Migration (1993) Regulations by omitting reference, in that paragraph, to paragraph 214.322(a) and substituting a reference to paragraph 214.321(1)(a). This amendment is made to reflect the amendment made by subregulation 3.1 of these regulations and has no effect on the substantive operation of the Migration (1993) Regulations.

Subregulation 3.3 amends clause 214.332 by inserting after the word "applicant" the words ", and each member of the family unit of the applicant born before lodging of the application who is also an applicant for a class 214 visa,". This has the effect that if all family unit members of an applicant who are applicants for a Class 214 visa and who are born before the primary person's application is lodged, do not reside in Cambodia for a period of 12 months prior to the time of decision, the primary person is ineligible for grant.

Regulation 4 - Schedule 2, Chapter 2.6 (Refugee and humanitarian (temporary entry) visas and entry permits)

Subregulation 4.1 amends clause 435.521 of the Migration (1993) Regulations to provide that a Class 435 entry permit may be granted for a period not later than 30 June 1994.

Subregulation 4.2 amends clause 435.723 of the Migration (1993) Regulations to provide that the applicant for a Class 435 entry permit must not be the holder of an entry permit, other than a Class 435 entry permit, having effect on or after 30 June 1994.

Subregulation 4.3 amends clause 443.521 of the Migration (1993) Regulations to provide that a Class 443 entry permit may be granted for a period not later than 30 June 1994.

Subregulation 4.4 amends clause 443.723 of the Migration (1993) Regulations to provide that the applicant for a Class 443 entry permit must not be the holder of an entry permit, other than a Class 443 entry permit, having effect on or after 30 June 1994.

Regulation 5 - Schedule 3 (Provisions with respect to the grant of visas and entry permits included in certain groups to secondary persons)

Part 013 - Permanent Resident (Refugee and Humanitarian) Visas and Entry Permits

This regulation adds a new clause 013.336 to require an applicant for a Class 214 (Cambodian (special assistance)) visa who are born before the relevant primary person's application is lodged, to reside in Cambodia for a period of 12 months prior to the time of decision.