

Migration (1993) Regulations (Amendment) 1994 No. 39

EXPLANATORY STATEMENT

STATUTORY RULES 1994 No. 39

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, 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 create a new class of visa and entry permit - Class 775 (designated persons (child) (temporary)) visa and entry permit - to allow certain children under the age of 18 who are in immigration detention to be released from detention. It is a prescribed criterion for an applicant to be released from custody that a care arrangement has been made between the applicant and an Australian permanent resident or an Australian citizen and that the Minister is satisfied that the care arrangement is in the best interests of the child. The Minister is authorised to require the person entering into the care arrangement to undertake to meet all expenses for maintaining the child while under the care arrangement.

The entry permit granted to a successful applicant cannot be used for the purpose of obtaining permanent residence. It has effect only until decisions on claims to refugee status and applications for entry permits are finalised.

Details of the Regulations are as follows:

Regulation 1 - Amendment

This regulation provides For the Migration (1993) Regulations to be amended as set out in these Regulations. The Regulations commence on gazettal.

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

Subregulation 2.1 inserts new Class 775 (Designated persons (child) (temporary)) visa and entry permit, created by these Regulations, as Item 2801C in Division 2.8 - Group 2.8 (Miscellaneous) of Schedule 1 of the Migration (1993) Regulations.

Regulation 3 - Schedule 2, Chapter 2.8 (Miscellaneous visas and entry permits)

Subregulation 3.1 inserts new Part 775 - Class 775 (Designated persons (child) (temporary)) visa and entry permit into the Migration (1993) Regulations.

Details of the new Part are as follows:

Part 775 - Class 775 (Designated persons (child) (temporary)) visa and entry permit

The period of validity for the entry permit is set out at subdivision 775.52. The criteria to be satisfied for a Class 775 visa before entry are prescribed in clauses 775.321 and 775.322 and clauses 775.331 and 775.336. The criteria to be satisfied for a Class 775 entry permit are prescribed in clauses 775.721 to 775.722 and clauses 775.731 to 775.736. There is no charge for the grant of the visa or entry permit (Division 775.8). Conditions applicable to the visa and entry permit are set out in subdivisions 775.341 and 775.741 respectively.

The Regulations commence on gazettal.