

# Migration Amendment Regulations 1999 (No. 2)

Statutory Rules 1999 No.

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I, WILLIAM PATRICK DEANE, 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 15 APR 1999 1999.

**WILLIAM DEANE**

Governor-General

By His Excellency's Command,

PHILIP RUDDOCK

Minister for Immigration and Multicultural Affairs

# Migration Amendment Regulations 1999 (No./)

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Statutory Rules 1999 No. <sup>2</sup>

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made under the

*Migration Act 1958*

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1999,

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**Regulation 1**

**1 Name of regulations**

These regulations are the *Migration Amendment Regulations 1999 (No./)*.

**2**

**2 Commencement**

These regulations commence on gazettai.

**3 Amendment of *Migration Regulations 1994***

Schedule 1 amends the *Migration Regulations 1994*.

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*Migration Amendment Regulations 1999 (No./)*

1999,

**Z**

## Schedule 1      Amendments

(regulation 3)

### [1]      After regulation 2.07AB

*insert*

#### **2.07AC Application for Temporary Safe Haven (Class UJ) visa**

- (1) For subsection 46 (2) of the Act, the Temporary Safe Haven (Class UJ) visa class is a prescribed class of visa.
- (2) An application for a Temporary Safe Haven (Class UJ) visa is taken to have been validly made by a person (the *interviewee*) outside Australia if:
  - (a) the interviewee indicates to an authorised officer that he or she accepts the Australian Government's offer of a temporary stay in Australia; and
  - (b) the authorised officer endorses, in writing, the interviewee's acceptance of the offer.
- (3) An application for a Temporary Safe Haven (Class UJ) visa is also taken to have been validly made by a person outside Australia if an interviewee identifies the person as being a member of his or her family unit.
- (4) An application for a Temporary Safe Haven (Class UJ) visa is taken to have been validly made by a person in Australia (the *entrant*) if:
  - (a) the entrant entered Australia as the holder of a Temporary Safe Haven (Class UJ) visa; and
  - (b) an authorised officer endorses again, in writing, the acceptance made by the entrant under subregulation (2).

- (5) An application for a Temporary Safe Haven (Class UJ) visa is also taken to have been validly made by a person in Australia if an entrant identifies the person as being a member of his or her family unit.

**[2] Schedule 1, Part 2, after Item 1223A**

*insert*

**1223B. Temporary Safe Haven (Class UJ)**

- (1) Form: Nil.
- (2) Visa application charge: Nil.
- (3) Subclasses:
  - 448 (Kosovar Safe Haven (Temporary))

*Note* See regulation 2.07AC for how an application for a Temporary Safe Haven (Class UJ) visa is taken to have been validly made.

**[3] Schedule 2, after Part 446**

*insert*

**Subclass 448 Kosovar Safe Haven (Temporary)**

**448.1 Interpretation**

*Note* No interpretation provisions specific to this Part.

**448.2 Primary criteria**

*Note* The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this Subclass need satisfy only the secondary criteria.

**448.21 [No criteria to be satisfied at time of application]**

**448.22 Criteria to be satisfied at time of decision**

- 448.221 (1) If the application is made outside Australia, the applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant:
- (a) was resident in Kosovo in the Federal Republic of Yugoslavia on 25 March 1999; and
  - (b) has been displaced from Kosovo since 25 March 1999.
- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) is a member of the immediate family of a holder of a Subclass 448 visa (*the visa holder*); and
  - (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 448 visa.
- 448.222 If the application is made in Australia, the applicant is the holder of a Subclass 448 visa.
- 448.223 Grant of the visa would not result in either:
- (a) the number of Subclass 448 visas granted in a financial year exceeding the maximum number of Subclass 448 visas, as determined by Gazette Notice, that may be granted in that financial year; or
  - (b) the number of visas of particular classes, including Subclass 448, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.

448.224 The applicant satisfies public interest criteria 4002 and 4003.

448.225 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.

### **448.3 Secondary criteria**

*Note* These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

**448.31 [No criteria to be satisfied at time of application]**

### **448.32 Criteria to be satisfied at time of decision**

448.321 The applicant:

- (a) is a member of the family unit of a person who, having satisfied the requirements of subclause 448.221 (2), is the holder of a Subclass 448 visa; or
- (b) is a member of the immediate family of a person who, having satisfied the requirements of subclause 448.221 (3), is the holder of a Subclass 448 visa.

448.322 The applicant satisfies public interest criteria 4002 and 4003.

448.323 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.

### **448.4 Circumstances applicable to grant**

448.411 The applicant may be in, or outside, Australia at time of grant.

**448.5 When visa is in effect**

448.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

**448.6 Conditions**

448.611 If the applicant is outside Australia at time of grant, conditions 8101, 8506 and 8529.

448.612 If the applicant is in Australia at time of grant, conditions 8101 and 8506.

448.613 Condition 8303 may be imposed.

**448.7 Way of giving evidence**

448.711 Visa label affixed to a valid passport.

**[4] Schedule 8, after item 8528**

*insert*

8529 The holder must, after entering Australia:

- (a) undergo a medical examination carried out by:
  - (i) a Commonwealth Medical Officer; or
  - (ii) a medical practitioner approved by the Minister; or
  - (iii) a medical practitioner employed by an organisation approved by the Minister; and
- (b) undergo a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia, unless the holder:
  - (i) is under 16 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
  - (ii) is a person:
    - (A) who is confirmed by a Commonwealth Medical Officer to be pregnant; and

- (B) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
- (C) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
- (D) whom the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

### Notes

1. These regulations amend Statutory Rules 1994 No. 268, as amended by 1994 Nos. 280, 322, 376 and 452; 1995 Nos. 3, 38, 117, 134, 268, 302 and 411; 1996 Nos. 12, 75 (regulations 7 and 8 were disallowed by the Senate on 11 September 1996), 76, 108, 121, 135, 198, 211 (regulations 4, 10, 11, 13.3, 14-37, 47-49, 51, 53-55, 74, 77.16, 77.19, 78, 85, 119 and 114 were disallowed by the Senate on 7 November 1996) and 276; 1997 Nos. 17, 64, 91, 92, 109, 137, 184, 185, 216, 263, 279, 288, 301 and 354; 1998 Nos. 36, 37, 104 (regulation 15 was disallowed by the Senate on 2 July 1998), 139, 210, 214, 284, 285 (disallowed by the Senate on 31 March 1999), 304, 305, 306 and 322; 1999 No. 8.
2. Made by the Governor-General on £ 1999, and notified in the *Commonwealth of Australia Gazette* on ^/ 1999.