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Migration Amendment Regulations 1999 (No. 7)

Statutory Rules 1999 No. 7

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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 *28 May* 1999.

WILLIAM DEANE
Governor-General

By His Excellency's Command,

PHILIP RUDDOCK
Minister for Immigration and Multicultural Affairs



Migration Amendment Regulations 1999 (No. 7)¹

Statutory Rules 1999 No. 7²

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made under the

Migration Act 1958

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Migration Amendment Regulations 1999 (No. 7)

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Regulation 1

1 Name of regulations

These regulations are the *Migration Amendment Regulations 1999 (No. 7)*.

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2 Commencement

These regulations commence on 1 June 1999.

3 Amendment of *Migration Regulations 1994*

Schedule 1 amends the *Migration Regulations 1994*.

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Schedule 1 Amendments

(regulation 3)

[1] Schedule 1, subitem 1223B (3)

substitute

(3) Subclasses:

448 (Kosovar Safe Haven (Temporary))

449 (Humanitarian Stay (Temporary))

[2] Schedule 2, after Part 448

insert

Subclass 449 Humanitarian Stay (Temporary)

449.1 Interpretation

Note No interpretation provisions specific to this Part.

449.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. Other members of the family unit, or members of the immediate family of a person, who are applicants for a visa of this subclass need satisfy only the secondary criteria.

449.21 [No criteria to be satisfied at time of application]

449.22 Criteria to be satisfied at time of decision

- 449.221 (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:
- (a) the applicant has been displaced from his or her place of residence, and:
- (i) cannot reasonably return to that place of residence; and
- (ii) is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, he or she was displaced from that place of residence; or
- (b) the applicant has not been displaced from his or her place of residence, but:
- (i) there is a strong likelihood that the applicant will be displaced from that place of residence; and
- (ii) the applicant is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, the applicant may be displaced from that place of residence.
- (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 449 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 449 visa.
- 449.222 If the application is made in Australia, the applicant is the holder of a Subclass 449 visa.

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- 449.223 Grant of the visa would not result in either:
- (a) the number of Subclass 449 visas granted in a financial year exceeding the maximum number of Subclass 449 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 449, 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.
- 449.224 The applicant satisfies public interest criteria 4002, 4003 and 4007.

449.3 Secondary criteria

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

449.31 [No criteria to be satisfied at time of application]

449.32 Criteria to be satisfied at time of decision

- 449.321 The applicant:
- (a) is a member of the family unit of a person who, having met the requirements of subclause 449.221 (2), is the holder of a Subclass 449 visa; or
 - (b) is a member of the immediate family of a person who, having met the requirements of subclause 449.221 (3), is the holder of a Subclass 449 visa.
- 449.322 The applicant satisfies public interest criteria 4002, 4003 and 4007.

449.4 Circumstances applicable to grant

- 449.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 449.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

449.5 When visa is in effect

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

449.6 Conditions

- 449.611 Condition 8506.
- 449.612 Conditions 8101 and 8303 may be imposed.

449.7 Way of giving evidence

- 449.711 Visa label affixed to a valid passport.

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 Nos. 8, 58, 64, 68 and 76. (as amended by 1999 No. 81), (as amended by 1999 No. 81) and 81
2. Made by the Governor-General on \sphericalangle 1999, and notified in \sphericalangle 1999. 28 May
the *Commonwealth of Australia Gazette* on \sphericalangle 1999. 31 May