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Migration Amendment Regulations 2000 (No. 4)

Statutory Rules 2000 No. 4

192

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 24 JUL 2000 2000

WILLIAM DEANE

Governor-General

By His Excellency's Command

PHILIP RUDDOCK
Minister for Immigration and Multicultural Affairs



Migration Amendment Regulations 2000 (No. 4)¹

Statutory Rules 2000 No. 4²

192

made under the

Migration Act 1958

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2000, 4

Migration Amendment Regulations 2000 (No. 4)

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Regulation 1

1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2000* (No. ~~/~~).

4

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Migration Regulations 1994*

Schedule 1 amends the *Migration Regulations 1994*.

2

Migration Amendment Regulations 2000 (No. ~~/~~)

2000, ~~/~~

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Schedule 1 Amendments

(regulation 3)

[1] **Regulation 2.07AC, heading**

substitute

**2.07AC Applications for Temporary Safe Haven and
Temporary (Humanitarian Concern) visas**

[2] **Subregulation 2.07AC (1)**

substitute

(1) For subsection 46 (2) of the Act, each of the following classes of visa is a prescribed class of visa:

- (a) the Temporary Safe Haven (Class UJ) visa class;
- (b) the Temporary (Humanitarian Concern) (Class UO) visa class.

[3] **Subregulations 2.07AC (2) and (3)**

omit

Temporary Safe Haven (Class UJ) visa

insert

visa of a class mentioned in subregulation (1)

[4] **Schedule 1, after item 1223B**

insert

**1223C. Temporary (Humanitarian Concern)
(Class UO)**

(1) Form: Nil.

(2) Visa application charge: Nil.

(3) Subclasses:

786 (Temporary (Humanitarian Concern))

Note See regulation 2.07AC for how an application for a Temporary (Humanitarian Concern) (Class UO) visa is taken to have been validly made.

[5] **Schedule 2, after Part 785**

insert

**Subclass 786 Temporary
(Humanitarian
Concern)**

786.1 Interpretation

Note No interpretation provisions specific to this Part.

786.2 Primary criteria

Note All applicants must satisfy the primary criteria.

786.21 Criteria to be satisfied at time of application

786.211 The applicant is the holder of a Temporary Safe Haven (Class UJ) visa.

786.22 Criteria to be satisfied at time of decision

786.221 The Minister is satisfied that, for reasons of humanitarian concern, the applicant should be permitted to remain in Australia for a further period.

786.222 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

(a) a Medical Officer of the Commonwealth;

-
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- 786.223 (1) Subject to subclause (2), the applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.
- (2) Subclause (1) does not apply to an applicant if the applicant:
- (a) 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
- (b) is a person:
- (i) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) 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
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 786.224 The applicant satisfies public interest criterion 4001 or, if the applicant is unable to satisfy that criterion because the appropriate inquiries have not been completed, the applicant declares in writing, to the satisfaction of the Minister, that the applicant:
- (a) does not have a criminal record; and
- (b) is not a terrorist; and

- (c) has not engaged in crimes against humanity or war crimes; and
- (d) will assist Immigration by attempting to obtain any relevant records relating to the applicant.

786.225 The applicant satisfies public interest criteria 4002 and 4003.

786.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

786.4 Circumstances applicable to grant

786.411 The applicant must be in Australia.

786.5 When visa is in effect

786.511 Temporary visa permitting the holder to remain in, but not re-enter, Australia until the earlier of:

- (a) the end of 36 months from the date of grant of the visa; and
- (b) the end of any shorter period determined in writing by the Minister from the date of grant of the visa.

786.6 Conditions

786.611 The holder must notify Immigration of any change in the holder's address at least 2 working days before the change.

786.612 The holder must not become involved in any disruptive activity, or violence, that may be a threat to the welfare of the Australian community or a group in the Australian community.

786.7 Way of giving evidence

786.711 Visa label affixed to a valid passport.

[6] Schedule 2, subclause 866.227 (2)

substitute

(2) The applicant meets the requirements of this subclause if the applicant, or a member of the family unit of the applicant, is not a person who has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary Safe Haven (Class UJ) visa as provided for in regulation 2.07AC.

[7] Schedule 2, after clause 866.228

insert

866.229 If the applicant, or a member of the family unit of the applicant, has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary (Humanitarian Concern) (Class UO) visa as provided for in regulation 2.07AC, the offer was made:

- (a) more than 30 months before the time of decision; or
- (b) if a shorter period was specified in writing by the Minister, more than that period before the time of decision.

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 (as amended by 1999 Nos. 81 and 132), 76 (as amended by 1999 Nos. 81 and 132), 81 (as amended by 1999 No. 132), 82, 132, 155, 198, 220 (as amended by 1999 Nos. 259 and 321), 243, 259, 260 (as amended by 1999 No. 321), 321 and 325; 2000 Nos. 52, 62 and 108.
2. Made by the Governor-General on / 2000, and notified in
the *Commonwealth of Australia Gazette* on / 2000.

24 July
25 July