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Migration Agents Amendment Regulations 2002 (No. 1)¹

Statutory Rules 2002 No. 1²

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I, PETER JOHN HOLLINGWORTH, 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 19 SEP 2002 2002

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

GARY HARDGRAVE
Minister for Citizenship and Multicultural Affairs

1 Name of Regulations

These Regulations are the *Migration Agents Amendment Regulations 2002 (No. 1)*.

1

2 Commencement

These Regulations commence on 1 November 2002.

3 Amendment of *Migration Agents Regulations 1998*

Schedule 1 amends the *Migration Agents Regulations 1998*.

Schedule 1 Amendments

(regulation 3)

[1] Before regulation 1

insert

Part 1 Introductory

[2] After regulation 3

insert

Part 2 Assistance given by persons not registered

3A Definitions for Part 2

(1) In this Part:

employee has the meaning given by regulation 3B.

employer has the meaning given by regulation 3B.

migrating employee, in relation to an employer, means an employee, or a prospective employee, of the employer:

- (a) whom the employer intends to sponsor or nominate for the *Migration Regulations 1994*; or
- (b) whom the employer is likely to sponsor or nominate for those Regulations.

specified application means an application for one of the following classes of visa:

- (a) Employer Nomination (Migrant) (Class AN);
- (b) Employer Nomination (Residence) (Class BW);
- (c) Labour Agreement (Migrant) (Class AU);
- (d) Labour Agreement (Residence) (Class BV);
- (e) Temporary Business Entry (Class UC).

3B Meaning of employer and employee

For this Part, a person is the *employer* of an individual, and the individual is the *employee* of the person, if:

- (a) the person engages the individual to work in the person's workplace for an indefinite period rather than for a specified term or for the duration of a specified task; and
- (b) the person is responsible for paying the individual's salary or wages.

3C Assistance given by employers

- (1) For subregulation (2), the *relevant circumstances* are that an employer gives assistance of the kind mentioned in subsection 276 (1) or (2) of the Act to a migrating employee of the employer in relation to a specified application made by the migrating employee.
- (2) For subsection 276 (4) of the Act:
 - (a) the employer in the relevant circumstances does not give immigration assistance; and
 - (b) an employee who acts on behalf of the employer in the relevant circumstances does not give immigration assistance.

3D Representations made by employers

- (1) For subregulation (2), the *relevant circumstances* are that an employer makes representations of the kind mentioned in subsection 282 (4) of the Act on behalf of a migrating employee of the employer in relation to a specified application made by the migrating employee.
- (2) For subsection 282 (5) of the Act:
 - (a) the employer in the relevant circumstances does not make immigration representations; and
 - (b) an employee who acts on behalf of the employer in the relevant circumstances does not make immigration representations.

[3] Before regulation 4

insert

Part 3 Migration Agents

[4] After regulation 7

insert

7A Publication of notice of barring former agents from registration

For subsection 311B (2) of the Act, the Authority must publish the notice in a way in which the notice mentioned in regulation 7 must be published.

Notes

- 1. These Regulations amend Statutory Rules 1998 No. 53, as amended by 1999 No. 69; 2000 Nos. 64 and 309; 2001 No. 143.
- 2. Notified in the *Commonwealth of Australia Gazette* on 2002. *26 September*