

EXPLANATORY STATEMENT

Migration Regulations 1994

**ARRANGEMENTS FOR PROTECTION, HUMANITARIAN
AND REFUGEE VISAS 2016/024**

(Items 1401, 1402, 1403 and 1404)

1. Instrument IMMI 16/024 is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
2. The Instrument revokes IMMI 15/045 (F2015L00562) under subsection 33(3) of the *Acts Interpretation Act 1901*, which states where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The operation of the Instrument is that for sections 45 and 46 of the *Migration Act 1958* as an application is required for a Protection (Class XA) or a Refugee and Humanitarian (Class XB) or a Temporary Protection (Class XE) or a Safe Haven Enterprise (Class XE) visa, the Minister specifies under subregulation 2.07(5) of the Regulations, the requirement
 - a. that the relevant approved form listed in the Schedule to the Instrument must be completed by an applicant for a Protection (Class XA) or a Refugee and Humanitarian (Class XB) or a Temporary Protection (Class XE) or a Safe Haven Enterprise (Class XE) visa; and
 - b. of the relevant place listed in the Schedule to the Instrument at which an application for a Protection (Class XA) or a Refugee and Humanitarian (Class XB) or a Temporary Protection (Class XE) or a Safe Haven Enterprise (Class XE) visa must be made; and
 - c. of the relevant way or the manner in which the application for a Protection (Class XA) or a Refugee and Humanitarian (Class XB) or a Temporary Protection (Class XE) or a Safe Haven Enterprise (Class XE) visa must be made.

4. The purpose of the Instrument is to streamline the lodgement for offshore clients by not limiting the Special Humanitarian Processing Centres (SHPC) in which those clients can lodge a visa application for a humanitarian or refugee visa. The Instrument allows an offshore client to lodge his or her visa application via post or delivered by courier service at either the Sydney or Melbourne SHPC, irrespective of the country the client is located in at the time of lodgement.
5. In accordance with section 15J(2)(e) of the *Legislation Act 2003* consultation was not necessary. The Instrument is of a minor or machinery nature and does not substantially alter existing arrangements
6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 20020).
7. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the Instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
8. The Instrument, IMMI 16/024, commences on 1 July 2016.