

Migration Amendment (Workplace Justice Visa) Regulations 2024

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 June 2024

David Hurley

Governor‑General

By His Excellency’s Command

Andrew Giles

Minister for Immigration, Citizenship and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Workplace Justice Visa) Regulations 2024*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 July 2024. | 1 July 2024 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Migration Regulations 1994

1 Subitem 1237(3) of Schedule 1 (table item 2)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 2 | An applicant:  (a) if subitem (5A) applies to the applicant—must be in Australia, but not in immigration clearance; or  (b) otherwise—may be in or outside Australia, but not in immigration clearance. |

2 Subitem 1237(3) of Schedule 1 (table item 3, paragraph (a))

After “other than”, insert “clause 408.228A (workplace justice) or”.

3 Subitem 1237(3) of Schedule 1 (after table item 3)

Insert:

|  |  |
| --- | --- |
| 3A | If an applicant is seeking to satisfy the criterion in clause 408.219A of Schedule 2 on the basis that clause 408.228A (workplace justice) of that Schedule applies to the applicant, all of the following must apply:  (a) a certificate has been issued in relation to the applicant by a person, body or government entity determined in the instrument made under subitem (5B) of this item;  (b) the certificate states that a matter relating to workplace exploitation that is of a kind determined in the instrument made under that subitem applies in relation to the applicant;  (c) the certificate has not been revoked or set aside. |

4 After subitem 1237(5) of Schedule 1

Insert:

(5A) For the purposes of paragraph (a) of item 2 of the table in subitem (3), this subitem applies to the following applicants:

(a) an applicant (the ***primary applicant***) who is seeking to satisfy the criterion in clause 408.219A of Schedule 2 on the basis that clause 408.228A (workplace justice) of that Schedule applies to the applicant;

(b) an applicant who claims to be a member of the family unit of the primary applicant.

(5B) The Minister may, by legislative instrument, determine the following:

(a) a person, body or government entity for the purposes of paragraph (a) of item 3A of the table in subitem (3);

(b) a kind of matter relating to workplace exploitation for the purposes of paragraph (b) of item 3A of the table in subitem (3).

5 At the end of item 1237 of Schedule 1

Add:

(8) In this item:

***government entity*** means:

(a) a Department, agency or authority of the Commonwealth, a State or a Territory; or

(b) a person who holds an office or appointment under a law of the Commonwealth, a State or a Territory.

6 Subclause 408.219(2) of Schedule 2

After “in clause”, insert “408.228A (workplace justice),”.

7 After clause 408.228 of Schedule 2

Insert:

408.228A

Workplace justice

(1) This clause applies to the applicant if:

(a) the applicant seeks to remain in Australia to undertake a workplace justice activity; and

(b) the applicant is in a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph.

Note: There is no requirement for a person or organisation to pass the sponsorship test or pass the support test in relation to the applicant.

(2) For the purposes of subclause (1), an applicant ***undertakes a*** ***workplace justice activity*** if the applicant:

(a) is a complainant or victim (or alleged victim) in criminal proceedings relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1; or

(b) is a party to civil proceedings relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1; or

(c) is a complainant in a complaint made relating to the matter referred to in paragraph (b) of item 3A of the table in subitem 1237(3) of Schedule 1.

8 Subparagraphs 408.511(1)(b)(ii) and (2)(a)(ii) of Schedule 2

After “basis of”, insert “clause 408.228A (workplace justice) or”.