



# Migration Amendment (Strengthening Reporting Protections) Regulations 2024

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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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# Contents

1	Name .....	1
2	Commencement.....	1
3	Authority .....	1
4	Schedules.....	1
<b>Schedule 1—Amendments</b>		<b>2</b>
	<i>Migration Regulations 1994</i>	2



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## 1 Name

This instrument is the *Migration Amendment (Strengthening Reporting Protections) 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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Regulation 1.03

Insert:

*certifying entity* has the meaning given by subregulation 1.15R(1).

*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.

*workplace exploitation matter* has the meaning given by subregulation 1.15R(2).

#### 2 At the end of Division 1.2 of Part 1

Add:

##### 1.15R Certifying entity and workplace exploitation matter

- (1) The Minister may, by legislative instrument, determine that a person, body or government entity is a *certifying entity* for the purposes of regulations 2.43A and 2.43B.
- (2) The Minister may, by legislative instrument, determine that a matter is a *workplace exploitation matter* for the purposes of regulations 2.43A and 2.43B.

#### 3 After regulation 2.43

Insert:

##### 2.43A Minister must have regard to certain matters in considering cancellation of certain temporary visas for breach of visa condition

- (1) This regulation applies in relation to a visa if:
  - (a) the visa is a temporary visa other than:
    - (i) a criminal justice visa; or
    - (ii) an enforcement visa; and
  - (b) the Minister is satisfied that the visa holder has not complied with a particular condition (the *relevant condition*) to which the holder's visa is subject; and
  - (c) regulation 2.43B does not apply in relation to the visa.
- (2) For the purposes of paragraph 116(1A)(a) of the Act, the Minister must have regard to the following matters in determining whether the Minister is satisfied as mentioned in paragraph 116(1)(b) of the Act:
  - (a) any written certificate issued by a certifying entity that is a government entity if the certificate:
    - (i) was issued in relation to the visa holder in respect of a workplace exploitation matter; and

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- (ii) sets out the matters agreed to by Immigration and the government entity;
  - (b) any written certificate issued by a certifying entity that is not a government entity and that states that the entity considers that:
    - (i) there is prima facie evidence that the visa holder has been affected by a workplace exploitation matter; and
    - (ii) if any law limits the time within which a proceeding may be instituted, or a complaint made, in relation to the workplace exploitation matter—that time has not expired; and
    - (iii) there is a connection between the circumstances relating to the breach of the relevant condition and the workplace exploitation matter by which the visa holder has been affected;
  - (c) whether there is a connection between the circumstances relating to the breach of the relevant condition and the workplace exploitation matter to which a certificate mentioned in paragraph (a) or (b) relates;
  - (d) whether there is any evidence that the visa holder was not complying, or is no longer seeking to comply, with the purpose of the visa;
  - (e) whether the visa holder has committed, in writing, to do both of the following:
    - (i) to take action, in a timely manner, to resolve the workplace exploitation matter to which a certificate mentioned in paragraph (a) or (b) relates;
    - (ii) to comply in future with the visa conditions to which the holder's visa is subject;
  - (f) whether the visa holder has failed to comply with a commitment of a kind mentioned in paragraph (e) of this subregulation, or paragraph 2.43B(2)(d), (3)(d) or (4)(d), that the visa holder has previously given in relation to the visa.
- (3) Subregulation (2) does not limit, or otherwise affect, a power or duty of the Minister to cancel the visa under:
- (a) paragraph 116(1)(b) of the Act for non-compliance with a condition (other than the relevant condition) to which the visa holder's visa is subject; or
  - (b) a provision other than paragraph 116(1)(b) of the Act.

Note: For example, see subregulation 2.43(2) for the circumstances in which the Minister must cancel a visa.

### **2.43B Circumstances in which the Minister is not to cancel certain temporary visa for breach of restricted work condition**

- (1) This regulation applies in relation to a visa if:
  - (a) the visa is a temporary visa other than:
    - (i) a bridging visa; or
    - (ii) a criminal justice visa; or
    - (iii) an enforcement visa; and
  - (b) the visa is subject to a condition (the *restricted work condition*) restricting the work that the visa holder may do in Australia (other than a condition that prohibits the visa holder from engaging in any work in Australia); and
  - (c) the Minister is satisfied that the visa holder has not complied with the restricted work condition.

*Certificate issued by a certifying entity that is a government entity*

- (2) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:
- (a) a certifying entity that is a government entity has issued a written certificate in relation to the visa holder in respect of a workplace exploitation matter that set out the matters agreed to by Immigration and the government entity;
  - (b) the Minister is satisfied that there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the certificate relates;
  - (c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;
  - (d) the visa holder has committed, in writing, to do both of the following:
    - (i) to take action, in a timely manner, to resolve the workplace exploitation matter to which the certificate relates;
    - (ii) to comply in future with the visa conditions to which the holder's visa is subject.

*Certificate issued by a certifying entity that is not a government entity*

- (3) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:
- (a) a certifying entity that is not a government entity has issued a written certificate stating that the entity considers that:
    - (i) there is prima facie evidence that the visa holder is currently, or has been within the 12 month period preceding the issue of the certificate, the subject of a workplace exploitation matter; and
    - (ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder is, or has been, subject;
  - (b) the Minister is satisfied that there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder is, or has been, subject;
  - (c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;
  - (d) the visa holder has committed, in writing, to do both of the following:
    - (i) to take action to resolve the workplace exploitation matter in a timely manner;
    - (ii) to comply in future with the visa conditions to which the holder's visa is subject.
- (4) For the purposes of subsection 116(2) of the Act, the Minister is not to cancel the visa under paragraph 116(1)(b) of the Act if all of the following circumstances exist:
- (a) a certifying entity that is not a government entity has issued a written certificate stating that the entity considers that:



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- (i) there is prima facie evidence that the visa holder has been the subject of a workplace exploitation matter at a time that is more than 12 months before the issue of the certificate; and
  - (ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder has been subject;
  - (b) the Minister is satisfied that:
    - (i) the workplace exploitation matter to which the visa holder has been subject is serious or systemic in nature; and
    - (ii) there is a connection between the circumstances relating to the breach of the restricted work condition and the workplace exploitation matter to which the visa holder has been subject;
  - (c) the Minister is satisfied that the visa holder will comply in future with the purpose of the visa;
  - (d) the visa holder has committed, in writing, to do both of the following:
    - (i) to take action to resolve the workplace exploitation matter in a timely manner;
    - (ii) to comply in future with the visa conditions to which the holder's visa is subject.

*Failure to comply with written commitment*

- (5) Subregulations (2), (3) and (4) do not apply in relation to the visa if the Minister is satisfied that the visa holder has failed to comply with a written commitment of a kind mentioned in paragraph (2)(d), (3)(d) or (4)(d), or paragraph 2.43A(2)(e), that the visa holder has previously given in relation to the visa.

*Other powers or duties to cancel*

- (6) Subregulations (2), (3) and (4) do not limit, or otherwise affect, a power or duty of the Minister to cancel the visa under:
  - (a) paragraph 116(1)(b) of the Act for non-compliance with a condition (other than the restricted work condition) to which the visa holder's visa is subject; or
  - (b) a provision other than paragraph 116(1)(b) of the Act.

Note: For example, see subregulation 2.43(2) for the circumstances in which the Minister must cancel a visa.

#### **4 In the appropriate position in Schedule 13**

Insert:

## **Part 135—Amendments made by the Migration Amendment (Strengthening Reporting Protections) Regulations 2024**

### **13501 Operation of amendments**

The amendments made by Schedule 1 to the *Migration Amendment (Strengthening Reporting Protections) Regulations 2024* apply in relation to a

breach of a condition to which a visa is subject that occurs before, on or after the commencement of that Schedule.