

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship and Multicultural Affairs

Migration Regulations 1994

Migration (Arrangements for Refugee and Humanitarian (Class XB) visas) Amendment Instrument (LIN 22/060) 2022

- 1 The instrument, Departmental reference LIN 22/060, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument amends *Migration (Arrangements for Protection, Refugee and Humanitarian Visas) Instrument 2020* (LIN 20/169) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences on 10 June 2022, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The purpose of the instrument is to update the approved place and manner for making an application for Refugee and Humanitarian (Class XB) visa (Class XB visa). The Class XB visa includes the Subclass 200 (Refugee) visa, Subclass 201 (In-country Special Humanitarian) visa, Subclass 202 (Global Special Humanitarian) visa, Subclass 203 (Emergency Rescue) visa and the Subclass 204 (Woman at Risk) visa.
- 5 Previously, certain applicants for a Class XB visa could lodge their application by courier service at the Special Humanitarian Processing Centre on Lee Street. As the Lee Street office will be vacated at the end of June 2022, this instrument removes the option to lodge Class XB visa applications at that location.
- 6 Removing the direct courier option also aligns with Departmental client service practice for other visa applications.

Consultation

- 7 No consultation was undertaken as the amendments do not substantially alter existing arrangements. This accords with subsection 17(1) of the Legislation Act.
- 8 The Office of Best Practice Regulation (OBPR) was consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OBPR reference number is 22-01831.

Details of the instrument

- 9 Section 1 sets out the name of the instrument.

- 10 Section 2 provides for the commencement of the instrument on 10 June 2022.
- 11 Section 3 provides that LIN 20/169 is amended as set out in Schedule 1 to the instrument.
- 12 Item 1 of Schedule 1 omits paragraph (b) of column 3 of item 1 of the table in section 8. This removes the option to submit a Class XB visa application by courier directly to the Special Humanitarian Processing Centre, Department of Home Affairs, Level 3, 26 Lee Street, Sydney. As the Special Humanitarian Processing Centre's post office box will remain operational, an applicant will still be able to lodge by courier to the post office box address specified in LIN 20/169 for Class XB applications, if they use a courier service affiliated with Australia Post.
- 13 This change affects applicants whose entry to Australia has been proposed in accordance with form 681 or form 1417. In practice, these are applicants for a Class XB visa who:
 - are proposed for entry by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen, a body operating in Australia, or an approved proposing organisation; or
 - are proposed for humanitarian entry by an Australian citizen or Australian permanent resident who holds or held a Class XB visa, Protection (Class XA) visa or Resolution of Status (Class CD) visa, and are a member of the immediate family of their proposer.

Parliamentary scrutiny etc.

- 14 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Part 2 and Schedule 1 to the Regulations are prescribed as exempt by section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 15 The instrument is appropriate to be exempt from disallowance as it concerns matters of an administrative nature. Updating legislative instruments that specify administrative matters allows for consistent internal management of the migration policy framework in accordance with Departmental resources and arrangements.
- 16 The instrument was made by a delegate of the Minister in accordance with subregulation 2.07(5) of the Regulations.

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