

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (Arrangements for Protection, Refugee and Humanitarian Visas) Amendment Instrument (LIN 23/013) 2023

- 1 The instrument, Departmental reference LIN 23/013, 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 the day after it is registered on the Federal Register of Legislation and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The purpose of the instrument is to update the eligibility for certain classes of applicants to make an application for Temporary Protection (Class XD) visa and Safe Haven Enterprise (Class XE) visa.

Consultation

- 5 No consultation was undertaken as the amendments do not substantially alter existing arrangements. This accords with subsection 17(1) of the Legislation Act.
- 6 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 22-03808.

Details of the instrument

- 7 Section 1 sets out the name of the instrument.
- 8 Section 2 provides that the instrument will commence on the day after it is registered on the Federal Register of Legislation.
- 9 Section 3 provides that LIN 20/169 is amended as set out in Schedule 1 to the instrument.
- 10 Item 1 of Schedule 1 contains the entire amendment, substituting sections 9 and 10.
- 11 Section 9 will now provide that, for item 1403 of Schedule 1 to the Regulations, an application for a Temporary Protection (Class XD) visa by an applicant who does not hold, and has not held, a Temporary Protection (Class XD) visa or a Safe Haven Enterprise (Class XE) visa must be made using

the form 866 in internet or paper format and either as an internet application or posted with sufficient postage to the specified departmental address in Sydney.

- 12 Section 10 will now provide that, for item 1404 of Schedule 1 to the Regulations, an application for a Safe Haven Enterprise (Class XE) visa by an applicant who does not hold, and has not held, a Temporary Protection (Class XD) visa or a Safe Haven Enterprise (Class XE) visa must be made using the form 866 in internet or paper format and either as an internet application or posted with sufficient postage to the specified departmental address in Sydney.

Parliamentary scrutiny etc.

- 13 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*.
- 14 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.
- 15 The instrument was made by a delegate of the Minister in accordance with subregulation 2.07(5) of the Regulations.

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