

Migration Amendment Regulations 2002 (No. 11) 2002 No. 354

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 354

Issued by the Authority of the Minister for Immigration and Multicultural and Indigenous Affairs

Migration Act 1958

Migration Amendment Regulations 2002 (No. 11)

Subsection 504(1) of the *Migration Act 1958* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

In addition, paragraph (e) of the definition of "excised offshore place" in subsection 5(1) of the Act provides that the regulations may prescribe any island that forms part of a State or Territory as an "excised offshore place" (other than the external Territories of Christmas Island, Ashmore and Cartier Islands, and Cocos (Keeling) Islands, which are already defined as excised offshore places).

The purpose of the Regulations is to omit regulation 5.15B of the *Migration Regulations 1994*.

Regulation 5.15B prescribes the following islands as "excised offshore places" pursuant to paragraph (e) of the definition of "excised offshore place" in subsection 5(1) of the Act:

- Bernier Island, Dorre Island, Dirk Hartog Island and Faure Island.

The effect of being an "excised offshore place" is that persons who are not citizens of Australia who arrive in such places without authority - usually in the form of a visa - cannot make a valid application for a visa.

Regulation 5.15B was inserted in response to concerns that a fishing vessel, heading directly for the WA coast in the region of these islands, was carrying persons who might seek to enter Australia unlawfully by landing on the mainland or one of those islands. Subsequent to the insertion of regulation 5.15B, the boat was intercepted and the persons on board detained under the *Fisheries Management Act 1991*.

Regulation 5.15B is omitted from the Regulations as the islands were excised in response to concerns arising from a particular vessel and those concerns no longer exist.

The Regulations commence on gazettal.

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