



Migration Amendment Regulations 2007 (No. 14)¹

Select Legislative Instrument 2007 No. 356

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Migration Act 1958*.

Dated 17 October 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

KEVIN ANDREWS
Minister for Immigration and Citizenship

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1 Name of Regulations

These Regulations are the *Migration Amendment Regulations 2007 (No. 14)*.

2 Commencement

These Regulations commence, or are taken to have commenced, as follows:

- (a) on 10 September 2007 — regulations 1 to 3 and Schedule 1;
- (b) on 22 October 2007 — regulation 4 and Schedule 2;
- (c) on 31 October 2007 — regulation 5 and Schedule 3;
- (d) on 1 January 2008 — regulation 6 and Schedule 4.

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

Schedule 1 amends the *Migration Regulations 1994*, as amended by the *Migration Amendment Regulations 2007* (No. 9).

Note There are no transitional provisions relevant to the amendments made by Schedule 1.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 2 applies in relation to:
 - (a) an application for a visa:
 - (i) made in the period starting on 15 October 2007 and ending at the end of 21 October 2007; but
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) on 22 October 2007; and
 - (b) an application for a visa made on or after 22 October 2007.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by items [1], [2] and [3] of Schedule 3 apply in relation to an application for a visa made on or after 31 October 2007.
- (3) The amendments made by items [4] and [5] of Schedule 3 apply in relation to an application for a visa:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 31 October 2007; or
 - (b) made on or after 31 October 2007.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 4 apply in relation to an application for a visa:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 January 2008; or
 - (b) made on or after 1 January 2008.

Schedule 1 Amendments relating to refunds of visa application charge

(regulation 3)

[1] Subregulation 2.12F (3)

substitute

- (3) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
- (a) the application was made because of a mistake by the applicant; and
 - (b) the applicant withdraws the application in writing; and
 - (c) after the withdrawal, the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.
- (3A) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
- (a) the application is for a Temporary Business Entry (Class UC) visa; and
 - (b) the applicant withdraws the application because the criterion in paragraph 457.223 (4) (ed) or (ee) or (5) (ba) of Schedule 2 cannot be satisfied; and
 - (c) the applicant withdraws the application in writing; and

- (d) after the withdrawal, the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

[2] Paragraph 2.12F (7) (b)

substitute

- (b) the Minister pays the amount of the refund to:
 - (i) the payer; or
 - (ii) a person mentioned in subparagraph (1) (b) (ii) or (iii); or
 - (iii) a person mentioned in subparagraph (3) (c) (ii) or (iii); or
 - (iv) a person mentioned in subparagraph (3A) (d) (ii) or (iii);

**Schedule 2 Amendment relating to
Subclass 462 visas
commencing on
22 October 2007**
(regulation 4)

[1] Schedule 2, paragraph 462.221 (b)

omit

4109

insert

4019

**Schedule 3 Amendments relating to
Subclass 462 visas
commencing on
31 October 2007**
(regulation 5)

[1] Schedule 1, subitem 1224A (1)

substitute

(1) Forms:

- (a) For an applicant in a class of persons specified in an instrument in writing for this paragraph: 1208 or 1208E (Internet).
- (b) For any other applicant: 1208.

[2] Schedule 1, paragraph 1224A (3) (aa)

omit

Application

insert

Subject to paragraph (ab), application using form 1208

[3] Schedule 1, after paragraph 1224A (3) (aa)

insert

- (ab) Application using form 1208 by a person in a class of persons specified in an instrument in writing for this paragraph may be made in any foreign country.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

[4] Schedule 2, clause 462.612

substitute

462.612 Any 1 or more of conditions 8303, 8501, 8503, 8516 and 8540 may be imposed, unless an application is decided by the use of a computer program in accordance with an arrangement under section 495A of the Act.

[5] Schedule 2, clauses 462.613 and 462.614

omit

Schedule 4 Amendments relating to Subclass 116 and 836 visas

(regulation 6)

[1] Schedule 2, clause 116.225

omit

[2] Schedule 2, clause 116.325

omit

[3] Schedule 2, clause 836.222

omit

[4] Schedule 2, clause 836.323

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.