

EXPLANATORY STATEMENT

Migration Act 1958

GRANTING OF PROTECTION CLASS XA VISAS IN 2013/2014 FINANCIAL YEAR (Section 85)

1. Section 85 of the Act provides that the Minister may determine by instrument in writing the maximum number of the visas of a specified class or the visas of specified classes that may be granted in a specified financial year.
2. The purpose of this Legislative Instrument is to support the Government's determination that no more than 2750 permanent Protection visas be granted to applicants who lawfully applied onshore under the onshore component of the 2013/2014 Humanitarian Programme. The figure of 2773 takes into account the temporary protection visas that were granted in 2013/2014.
3. Section 86 of the Act provides that if there is a determination of the maximum number of visas of a class or classes that may be granted in a financial year; and the number of visas of the class or classes granted in the year reaches that maximum number; no more visas of the class or classes may be granted in the year.
4. Section 87 and section 87A of the Act provide for the circumstances where the limit made under section 85 does not prevent the grant of a visa.
5. This Instrument applies to all applicants who have applied for a Protection (Class XA) visa. This includes applicants who have applied before the implementation of this cap.
6. The purpose of the instrument is to set the cap for the Protection (Class XA) visa at 2773.
7. Under section 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Human Rights Statement of Compatibility is not required.

8. The Office of Best Practice Regulation has been consulted and has advised that a Regulatory Impact Statement is not required (OBPR reference 16700).
9. Consultation about the size and composition of the Protection, Humanitarian and Refugee Program is undertaken each year by the Department of Immigration and Border Protection.
10. The Instrument, IMMI 14/026, commences on the day after registration on the Federal Register of Legislative Instruments.