

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 18/029: Arrangements for Protection, Refugee and Humanitarian Visas)

Instrument 2018

Subregulation 2.07(5)

1. The instrument, LIN 18/029, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals IMMI 17/051 (*F2017L00767*) under subregulation 2.07(5) of the Regulations and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. Subregulation 2.07(5) of the Regulations empowers the Minister, if an item of Schedule 1 prescribes criteria or requirements by reference to a legislative instrument, to specify in a legislative instrument:
 - (a) an approved form for making an application for a class of visa;
 - (b) the way in which an application for a class of visa must be made; and
 - (c) the place at which an application for a class of visa must be made.
4. The instrument specifies the above requirements for the Protection (Class XA) visa, the Refugee and Humanitarian (Class XB) visa, the Temporary Protection (Class XD) visa and the Safe Haven Enterprise (Class XE) visa.
5. The purpose of the instrument is as follows:
 - (a) to provide an additional manner for lodging a paper application form for the Refugee and Humanitarian (Class XB) visas that was not specified in the previous instrument IMMI 17/051;
 - (b) to remove the Onshore Protection Victoria and the Special Humanitarian Processing Centre in Melbourne as approved places for lodging a

Protection (Class XA) visa application or a Refugee and Humanitarian (Class XB) visa application that was available in the previous instrument IMMI 17/051. Despite these centres no longer accepting paper application forms, paper applications are accepted via post to the specified addresses in Schedule 1 to the instrument.

6. The instrument applies to applications for a Protection (Class XA) visa, a Refugee and Humanitarian (Class XB) visa, a Temporary Protection (Class XD) visa and a Safe Haven Enterprise (Class XE) visa made on or after the commencement of this instrument.
7. The repealed instrument, IMMI 17/051, continues to apply for applications made before the commencement of this instrument, LIN 18/029.
8. In accordance with subsection 15J(2)(e) of the *Legislation Act 2003*, consultation was not necessary. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements.
9. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference: 22865 and 23737).
10. The officer (Senior Executive Service, Band Two, Refugee, Citizenship and Multicultural Programs Division) who made the instrument was delegated the powers required to make the instrument in the Instrument of Delegation *Minister - Delegations Instrument No. 5 of 2018 (Instrument Making Powers) (MHA No. 5 of 2018)*, signed on 10 April 2018.
11. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
12. The instrument commences on the day after registration on the Federal Register of Legislation.