



LIN 21/080

**Migration (Class of persons—Refugee and Humanitarian (Class XB) visa)  
Instrument (LIN 21/080) 2021**

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I, Alex Hawke, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, make this instrument under subsection 1402(3C) of Schedule 1 to the *Migration Regulations 1994* (the **Regulations**).

Dated 15 November 2021

Alex Hawke

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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**1 Name**

This instrument is the *Migration (Class of persons—Refugee and Humanitarian (Class XB) visa) Instrument (LIN 21/080) 2021*.

**2 Commencement**

This instrument commences on the day after registration.

**3 Definitions**

In this instrument:

*Act* means the *Migration Act 1958*.

*subclass 449 visa* means a Subclass 449 Humanitarian Stay (Temporary) visa.

*Note* Section 46 of the *Acts Interpretation Act 1901* applies to this instrument, meaning that terms defined in the Act and Regulations have the same meaning in this instrument, including *member of the immediate family* and *member of the family unit*.

**4 Class of persons**

- (1) For paragraph 1402(3B)(b) of Schedule 1 to the Regulations, an applicant for a Refugee and Humanitarian (Class XB) visa is in a class of persons if the applicant is of a kind mentioned in subsection (2) or (3).
- (2) The applicant has been granted a subclass 449 visa due to any of the following:
  - (a) the deteriorating security situation in Afghanistan (the *main 449 visa holder*);
  - (b) being a member of the immediate family of a main 449 visa holder at the time that the main 449 visa holder was granted that visa;
  - (c) being a member of the family unit of a main 449 visa holder;
  - (d) being a member of the immediate family of a subclass 449 visa holder referred to in paragraph (b).
- (3) The applicant:
  - (a) is a child born in Australia who is taken to be granted a subclass 449 visa by operation of section 78 of the Act; and
  - (b) is the child of an applicant mentioned in subsection (2).