



# National Gazette

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**No. G170]**

**PORT MORESBY, FRIDAY, 26th APRIL**

**[2013**

## NOTICE OF THE MAKING OF REGULATION

THE Regulation set out in the table below has been made under the Laws set out in the table.

Statutory Instrument No.	Citation or Nature
No. 1 of 2013    ....    ....    ....    ....    ....    ....    ....	Migration (Amendment) Regulation 2013.

The above Regulation shall come into operation on the date of publication of this notice in the *National Gazette*.

Copies of the Regulations may be obtained from the Office of Legislative Counsel at the following address:  
Office of Legislative Counsel, Department of the Prime Minister and NEC, Level 4, Morauta Haus, P.O. Box 639,  
Waigani, National Capital District, Telephone 327 6652, Facsimile: 327 6663

Dated this 26th day of April, 2013.

I. VEALI,  
Acting Secretary,  
National Executive Council.



**STATUTORY INSTRUMENT**

No. 0/ of 2013.

*Migration (Amendment) Regulation 2013.*

**ARRANGEMENT OF SECTIONS.**

New Sections 14 and 15.

**“14. DETERMINATION OF NON-CITIZEN AS REFUGEE.**

**“15. NOTICE OF REFUGEE DETERMINATION.”.**



## STATUTORY INSTRUMENT

No. of 2013.

### *Migration (Amendment) Regulation 2013,*

Being a Regulation to amend *Migration Regulation 1979*,

MADE by the Head of State, acting with, and in accordance with, advice of the National Executive Council under the *Migration Regulation 1979*.

#### **NEW SECTIONS 14 AND 15.**

The Principal Regulation is amended by inserting immediately after Section 13 the following new Sections:

#### **“14. DETERMINATION OF NON-CITIZEN AS REFUGEE.**

(1) For the purposes of Section 15A of the Act, the Minister may determine a non-citizen to be a refugee for the purposes of the Act if the Minister is satisfied that -

- (a) the non-citizen has been transferred to Papua New Guinea under the Memorandum of Understanding between the Government of the Independent State of Papua New Guinea and the Government of Australian, Relating to the Transfer to and Assessment of Persons in Papua New Guinea and Related Issues; and
- (b) the non-citizen holds a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
- (c) the non-citizen -
  - (i) is outside of the country of his or her nationality and is unable or owing to such fear, is unwilling to avail himself or herself of the protection of that country; or
  - (ii) does not have a nationality and being outside his or her country of former habitual residence is unable, or, owing to such fear, is unwilling to return to it; and
- (d) the non-citizen is not excluded from recognition as a refugee in Papua New Guinea under Subsection (2).”

(2) A non-citizen is excluded from recognition as a refugee in Papua New Guinea if the Minister is satisfied that the non-citizen -

*Migration (Amendment)*

- (a) has been recognised by the competent authorities of a country in which he or she has taken residence or held residence as having the rights and obligations which are attached to possession of the nationality of that country; or
- (b) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; or
- (c) has committed a serious non-political crime in another country; or
- (d) has been found guilty of acts contrary to the purpose and principles of the United Nations; or
- (e) is a threat to the national security or defence of Papua New Guinea if he or she remains in Papua New Guinea; or
- (f) is a member of, or adheres to, any organisation or group of persons that has engaged in, or has claimed responsibility for, a terrorist act in or outside Papua New Guinea and the continued presence of that person in Papua New Guinea constitutes a threat to public safety; or
- (g) has engaged in, or has claimed responsibility for, a terrorist act in or outside Papua New Guinea and the continued presence of that person in Papua New Guinea constitutes a threat to public safety; or
- (h) has, during the period of his or her residency at the regional processing centre anywhere or within Papua New Guinea, exhibited a demeanor incompatible with a person of good character and standing.”

**“15. NOTICE OF REFUGEE DETERMINATION.**

(1) As soon as practicable after making a decision the Minister shall give the non-citizen notice of the decision.

- (2) The notice shall be in writing setting out -
  - (a) the decision on the asylum claim; and
  - (b) the reasons for the decision.

(3) Where the Minister determines that a non-citizen is not a refugee, the Minister must provide reasons for his decision.

(4) The Minister must not re-open a decision for further consideration after his decision has been made.”.

DATED this

12<sup>th</sup>

day of APRIL

, 2013

  
GOVERNOR GENERAL