

EXPLANATORY STATEMENT

Migration Regulations 1994

**SPECIFICATION OF OCCUPATIONS FOR NOMINATIONS IN RELATION TO
SUBCLASS 457 (BUSINESS (LONG STAY)) AND
SUBCLASS 442 (OCCUPATIONAL TRAINEE) VISAS**

(Paragraphs 2.72(10)(aa) and 2.72I(5)(ba))

1. This Instrument is made under paragraphs 2.72(10)(aa) and 2.72I(5)(ba) of the *Migration Regulations 1994* ('the Regulations').
2. Regulation 2.72 of the Regulations sets out the criteria for approval of a nomination in relation to the holder of, or an applicant or proposed applicant for, a Subclass 457 (Business (Long Stay)) visa. Regulation 2.72I of the Regulations sets out the criteria for approval of a nomination in relation to a holder of, or an applicant or proposed applicant for, a Subclass 442 (Occupational Trainee) visa.
3. Paragraph 2.72(10)(aa) of the Regulations provides that for standard business sponsors who make nominations in relation to Subclass 457 (Business (Long Stay)) visas on or after 1 July 2010, the Minister must be satisfied that the nominated occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified by the Minister in an instrument in writing for the paragraph. The purpose of this provision is to provide that persons seeking to satisfy the criteria for approval of a nomination for a Subclass 457 (Business (Long Stay)) visa made on or after 1 July 2010 must include in the nomination the name of the occupation, and the corresponding 6-digit code (if any) specified and include the location or locations at which the nominated occupation is to be carried out.
4. Paragraph 2.72I(5)(ba) of the Regulations provides that for occupational trainee sponsors who make nominations in relation to Subclass 442 (Occupational Trainee) visas on or after 1 July 2010, the Minister must be satisfied that the nominated occupational training is in relation to an occupation specified, with its corresponding 6-digit code, by the Minister in an instrument in writing for this paragraph.

5. The purpose of the instrument is to allow 457 and 442 visa applications lodged on or before 30 June 2012 to continue to be processed and have their nominated occupation assessed against the instrument in place at the time of lodgement.
6. The instrument specifies occupations for the purposes of paragraph 2.72(10)(aa) of the Regulations as the occupations listed in Schedule 1 to the Instrument.
7. The Instrument also specifies occupations for the purposes of paragraph 2.72I(5)(ba) of the Regulations as the occupations listed in Schedule 1 to the Instrument, and, in addition, the occupation set out in Schedule 2 to the Instrument. Schedules 1 and 2 to the Instrument also specify the corresponding 6-digit code for each relevant occupation. This code is listed in accordance with the ANZSCO (the Australian and New Zealand Standard Classification of Occupations).
8. The specified occupations are unchanged from those in the previous instrument, which is being revoked, Instrument number IMMI 10/085.
9. The following document is incorporated in the Instrument by reference:
 - ANZSCO means, under regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics as current on 1 July 2010. The ANZSCO - First Edition, Revision 1 (ABS Catalogue No. 1220.0) is available online at <http://www.abs.gov.au>.
10. Pursuant to section 18 of the *Legislative Instruments Act 2003* consultation was not necessary. The Instrument is of a minor or machinery nature and does not substantially alter existing arrangements.
11. Under section 42 of the *Legislative Instruments Act 2003* the Instrument is subject to disallowance and therefore a Human Rights Statement of Compatibility has been provided.
12. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Ref 13758).
13. This Instrument number IMMI 12/022, commences on 1 July 2012.

**STATEMENT OF COMPATIBILITY FOR A LEGISLATIVE INSTRUMENT THAT DOES
NOT RAISE ANY HUMAN RIGHTS ISSUES**

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Skilled Occupation List Legislative Instrument

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Skilled Occupation List Legislative Instrument

A new instrument is required to legislate the annual revised Skilled Occupation List (SOL) and to introduce the Consolidated Sponsored Occupation List, which will replace three sponsored occupation lists currently in effect.

This instrument will come into effect on 1 July 2012 and will apply to people who make an application for skilled migration on or after this date. Applicants for most General Skilled Migration (GSM) visa subclasses must nominate a skilled occupation from the Skilled Occupation List and have a relevant assessing authority assesses their skills in the nominated occupation.

For GSM, the instrument will provide for applicants for current onshore visa subclasses, 885, 886 and 487, which are available until 31 December 2012 and for the new GSM visa subclasses, 189, 190 and 489. It will also provide for subclass 485.

The new instrument also helps give effect to the reforms to the Employer Nominated Scheme and the Government's commitment to the visa simplification and deregulation agenda. From 1 July 2012, one consolidated sponsored occupation list will replace the three occupation lists currently in operation, which are the Employer Nomination Skilled Occupation List, the State and Territory Sponsored Occupation List and the 457 and 442 list. It will provide for subclass 186 applicants who apply for this visa via the Direct Entry stream, which relates to applicants who do not satisfy the prerequisite for making an application under the Temporary Residence Transition Stream and are not nominated under a permanent labour agreement.

Human rights implications

This Skilled Occupation List Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The proposed Legislative Instrument is compatible with human rights and does not introduce any new or unacceptable limits on human rights.