

## **EXPLANATORY STATEMENT**

### *Migration Regulations 1994*

#### **LOCATION OF CAMPUSES AND POSTCODES**

1. This Instrument is made under Item 6D101 of Schedule 6D to the *Migration Regulations 1994* ('the Regulations').
2. Item 6D101 of the Regulations provides that an additional 5 points are available when:
  - an applicant has met the Australian study requirement;
  - the location of the campus or campuses at which that study was undertaken is specified by the Minister in an instrument in writing;
  - while the applicant undertook the course of study the applicant lived in a part of Australia, the postcode of which is specified by the Minister in an instrument in writing; and,
  - none of the study undertaken constituted distance education.
3. As an applicant is required to meet the Australian Study Requirement in order to be awarded points under the relevant points test, the key requirement for Regional study points is that the study is undertaken, and the applicant resides in a Regional or Low Population Growth Metropolitan Area (RLPGM) area. Rather than specifying individual campuses the Instrument specifies relevant RLPGM postcodes.
4. The purpose of this Instrument is to:
  - revoke Legislative Instrument IMMI 05/077 specifying Educational Institutions in Regional and Low Population Growth Metropolitan Areas for the purposes of Items 6A1001 and 6A1002 of Schedule 6A to the Regulations
  - specify the postcodes of campuses at which study is undertaken and where the applicant resides.
5. The instrument operates to reflect that items 6A1001 and 6A1002 of Schedule 6A of the Regulations will be repealed from 1 July 2012. Items 6A1001 and 6A1002 provide for the Minister to specify regional or low population campuses and postcodes in an Instrument. Currently visa subclass 405, subclass 887, Schedule 6B and 6C (Points Tests) and Condition 8539 all refer to Item 6A1001 to define regional and low population areas. With the repeal of this Schedule the regulatory authority for the Minister to specify campuses and postcodes is to be relocated in a new Schedule 6D Item 6D101 to the Regulations.

6. This instrument also operates to include the following new visas commencing with the introduction of SkillSelect on 1 July 2012:
  - Skilled – Independent (Permanent) (Class SI);
  - Skilled - Nominated (Permanent) (Class SN); and
  - Skilled – Regional Sponsored (Provisional) (Class SP) visas.
7. 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.
8. 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.
9. The Office of Best Practice Regulation was consulted in relation to the introduction of SkillSelect, and has advised that a Regulatory Impact Statement is not required (OBPR Reference 13150).
10. This Instrument number IMMI 12/015, commences on 1 July 2012, immediately after the commencement of *Migration Amendment Regulation 2012 (No. 2)*.

## Statement of Compatibility with Human Rights

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

**Legislative Instrument number IMMI 12/015, relating to the locations deemed to be regional or low population growth metropolitan areas, for the purposes of awarding points under the points-based skilled migration points test.**

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 Legislative Instrument

This Legislative Instrument, made under Item 6D101 of Schedule 6D to the *Migration Regulations 1994* ('the Regulations'), specifies which areas of Australia qualify as regional and low population growth metropolitan areas, for the purposes of awarding points for study and residence in these areas.

The purpose of this Instrument is to:

- revoke Legislative Instrument IMMI 05/077 specifying Educational Institutions in Regional and Low Population Growth Metropolitan Areas for the purposes of Items 6A1001 and 6A1002 of Schedule 6A to the Regulations, as these Items will be repealed at 1 July 2012; and
- specify the postcodes of campuses at which regional study is undertaken and where the applicant must reside for the purposes of awarding points under the skilled migration points test.

This Instrument also operates to include the following new visas which commence with the introduction of SkillSelect on 1 July 2012:

- Skilled – Independent (Permanent) (Class SI);
- Skilled - Nominated (Permanent) (Class SN); and
- Skilled – Regional Sponsored (Provisional) (Class SP) visas.

## **Human rights implications**

As this Legislative Instrument is confined to specifying postcodes of campuses at which regional study is undertaken and where applicants must reside for the purposes of the skilled migration points test, this Legislative Instrument does not engage any of the applicable rights or freedoms under the seven key international human rights treaties.

## **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Chris Bowen, Minister for Immigration and Citizenship**