

EXPLANATORY STATEMENT

Migration Regulations 1994

SPECIFICATION OF OCCUPATIONS, A PERSON OR BODY, A COUNTRY OR COUNTRIES

(Regulation 1.03, subregulations 1.15I(1) and 2.26B(1), paragraph 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), Item 4(a) of the table in subitem 1137(4), Item 4(a) of the table in subitem 1138(4) and Item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k) and paragraph 186.234(2)(a))

1. This instrument is made under regulation 1.03, subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), Item 4(a) of the table in subitem 1137(4), Item 4(a) of the table in subitem 1138(4) and Item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k) and paragraph 186.234(2)(a) of the *Migration Regulations 1994* ('the Regulations').
2. This instrument operates to specify skilled occupations, the relevant ANZSCO code for an occupation, the relevant assessing authority for that occupation, and country (where an application for a skills assessment is made by a resident of that country).
3. Schedule 1 to this instrument, the Skilled Occupation List (SOL), is used to determine eligible occupations for independent or relative sponsored skilled migration purposes.
4. Schedule 1 and Schedule 2 to this instrument form the Consolidated Skilled Occupation List (CSOL). It applies to both State/Territory nominated Points Tested visas, the Direct Entry stream of the Employer Nomination Scheme, the Temporary Work (Skilled) visa, the Occupational Trainee stream of the Training and Research visa and the Occupational Trainee visa.
5. This instrument defines the ANZSCO as the Australian and New Zealand Standard Classification of Occupations current at 1 July 2013. It is published by the Australian Bureau of Statistics and is the classification system adopted for the purpose of the SOL and CSOL.
6. Paragraph 1 of the instrument relates to applicants who are issued an invitation to make an application for a Subclass 189 visa. It also relates to applicants who are not nominated by a State or Territory government agency and who are issued an invitation on or after 1 July 2013 but before 1 July 2014 to make an application for a Subclass 489 visa. In accordance with the Regulations, these applicants will be required to nominate a specified skilled

occupation and have their skills assessed by a specified relevant assessing authority. For these applicants, the occupations, assessing authorities and countries listed in Columns A, C and D of schedule 1 of this instrument are specified.

7. Paragraph 2 of the instrument relates to applicants who apply on or after 1 July 2013 but before 1 July 2014 for a Subclass 485 visa. In accordance with the Regulations, these applicants will be required to nominate a specified skilled occupation and have their skills assessed by a specified relevant assessing authority. For these applicants, the occupations, assessing authorities and countries listed in Columns A, C and D of schedule 1 of this instrument are specified.
8. Paragraph 3 of the instrument relates to applicants who are nominated by a State or Territory government agency or the spouse or de facto partner of a person who is nominated by a State or Territory government agency, who is issued an invitation on or after 1 July 2013 but before 1 July 2014 to make an application for a Subclass 190 or 489 visa. In accordance with the Regulations, these applicants will be required to nominate a specified skilled occupation and have their skills assessed by a specified relevant assessing authority. For these applicants, the occupations, assessing authorities and countries listed in Columns A, C and D of schedule 1 and schedule 2 of this Instrument are specified.
9. Paragraph 4 of the instrument relates to nominations for the Direct Entry stream in Subclass 186 Employee Nomination Scheme made on or after 1 July 2013 but before 1 July 2014. In accordance with the Regulations, the Minister must approve a nomination if the tasks to be performed in the position correspond to the tasks of a specified occupation, in addition to other requirements. For the purposes of these nominations, the skilled occupations listed in Column A of schedule 1 and schedule 2 of this instrument are specified.
10. Paragraph 5 of the instrument relates to applicants who apply for the Direct Entry stream in the Subclass 186 Employer Nomination Scheme on or after 1 July 2013 but before 1 July 2014. In accordance with the Regulations, these applicants will be required to have their skills assessed as suitable by a specified assessing authority for the occupation. For these applicants, the assessing authorities listed in Column D of schedule 1 and schedule 2 to this instrument are specified.
11. Paragraph 6 of the instrument relates to occupational trainee sponsors or training and research sponsors who make nominations on or after 1 July 2013 but before 1 July 2014 in relation to the Occupational Trainee stream of the Subclass 402 Training and Research visa or the

Subclass 442 Occupational Trainee visa. In accordance with the Regulations, the nomination must be made in relation to an occupation and its corresponding 6-digit code specified by the Minister in an instrument in writing. For the purpose of these nominations, Columns A and B in Schedule 1 and Columns A and B in schedule 2 of this instrument are specified, where applicable to the applicant.

12. Paragraph 7 of the instrument provides that the definition of ANZSCO is the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics and current as at 1 July 2013.
13. Pursuant to subsection 18(1) 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.
14. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 2014/16931).
15. 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 (attached).
16. The instrument, number IMMI 14/049 commences on 1 July 2014.

Statement of Compatibility with Human Rights

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

Specification of Occupations, a Person or Body, a Country or Countries Legislative Instrument (IMMI 14/049)

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 Specification of Occupations, a Person or Body, a Country or Countries Legislative Instrument

This instrument (IMMI 14/049) specifies skilled occupations and assessing authorities relevant to the assessment of applications for skilled migration under the *Migration Regulations 1994* (Migration Regulations).

Skilled occupations are specified in the instrument by reference to the name of each occupation and the corresponding Australian and New Zealand Standard Classification of Occupations (ANZSCO) code, which is used by the Department of Immigration and Border Protection to designate skilled occupations for migration purposes. Assessing authorities are independent expert bodies who certify that the applicant's educational qualifications and, in some cases, skilled work experience in their nominated occupation, is comparable to that necessary to undertake the same position in Australia.

In specifying skilled occupations, the instrument includes the Skilled Occupation List (SOL), which sets out eligible occupations, ANZSCO codes and assessing authorities for independent or family sponsored visas. Occupations on the SOL are those identified by the Australian Workforce and Productivity Agency as being in shortage in the Australian labour market in the medium to long term.

The instrument also specifies the Consolidated Sponsored Occupation List (CSOL) which similarly provides eligible occupations, ANZSCO codes and assessing authorities for applicants who apply for:

- State/Territory nominated visas;
- the Direct Entry stream of the Employer Nomination Scheme;
- the Occupational Trainee stream of the Training and Research visa; and
- the Occupational Trainee visa.

The instrument retains the substance of current Instrument IMMI 13/066, which relates to applications for skilled visas made on or after 1 July 2013 but before 1 July 2014. It does not alter the skilled occupations, persons or bodies who are relevant assessing authorities, or the countries specified, in Instrument IMMI 13/066.

This instrument will come into effect on 1 July 2014.

Human rights implications

As the instrument merely specifies the skilled occupations, ANZSCO codes and assessing authorities described above, specification of which is authorised under the Migration Regulations, it does not engage any of the applicable rights and freedoms contained in the seven core international human rights treaties.

Conclusion

The instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Hon Michaelia Cash, Assistant Minister for Immigration and Border Protection