

EXPLANATORY STATEMENT

Migration Regulations 1994

SPECIFICATION OF OCCUPATIONS, A PERSON OR BODY, A COUNTRY OR COUNTRIES AMENDMENT INSTRUMENT 2016/118

(paragraph 2.72B(3)(b))

1. Amendment Instrument IMMI 16/118 is made under paragraph 2.72B(3)(b) of the *Migration Regulations 1994* (the Regulations).
2. Under subsection 33(3) of the *Acts Interpretation Act 1901*, which states where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. Specification of Occupations, a Person or Body, a Country or Countries Amendment Instrument 2016/118 makes amendments to IMMI 16/059 – Specification of Occupations, a Person or Body, a Country or Countries 2016/059.
4. The purpose of the Instrument is to specify the occupations and their corresponding 6-digit code in relation to the nominated occupational training in applications made on or after 19 November 2016 for a Subclass 407 Training visa. The Subclass 407 (Training) visa forms part of the Department of Immigration and Border Protection's project to streamline temporary activity visas. This project is given effect by the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.
5. Extensive consultation was undertaken for the development of the new visa framework for temporary activity visas that is given effect by the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.
6. The Department of Immigration and Border Protection (the Department) consulted extensively in developing the new visa framework. In September 2014, the Department issued a discussion paper and received 68 submissions. The submissions were

considered in the formulation of a proposed framework that was released for consultation in December 2014. Responses were received from 71 industry stakeholders. In April 2015, the Department again sought stakeholder views by conducting a survey and received 1177 responses. The responses were considered by the Department in formulating the final framework.

7. Adjacent to this review, the Department and the Ministry for the Arts undertook a joint review of the Entertainment (subclass 420) visa and released a discussion paper on 12 January 2015, which provided an overview of a range of deregulation opportunities and proposed changes to longstanding VAC concessions. Sixty-three key stakeholders, including unions, entertainment bodies, current sponsors, relevant government agencies and migration agents were advised of the review. The department met with a number of stakeholders to discuss their comments about the range of deregulation opportunities raised in the paper. Most recently, public information sessions on the temporary activity visas were conducted in Perth, Melbourne, Brisbane and Sydney from 23 to 30 September 2016.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 19898)
9. Under section 42 of the *Legislation Act 2003*, the Instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided at **Attachment A** to this Explanatory Statement.
10. The Instrument commences immediately after the commencement of the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.

Statement of Compatibility with Human Rights

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

Occupations, a Person or Body, a Country or Countries Amendment for the Purposes of Subclass 407 (Training) Visa Instrument IMMI 2016/118

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

The Australian Government recently simplified and streamlined temporary work visas. The new Subclass 407 (Training) visa replaced the Subclass 402 (Training and Research) visa. This new visa subclass is for applicants who enter Australia to undertake occupational training for up to two years. The new visa and its requirements are similar to the repealed Subclass 402 (Training and Research) visa.

The purpose of the Legislative Instrument is to specify the skilled occupations and their 6-digit codes to which the occupational training must relate in order for a person to be nominated for a Subclass 407 (Training) visa according to paragraph 2.72B(3)(b) of the *Migration Regulations 1994 (Cth)* (Migration Regulations). Specifically, for the purposes of paragraph 2.72B(3)(b) of the Migration Regulations, the occupations and their corresponding 6-digit codes are listed in Columns A and B of Schedule 1. Columns A and B of Schedule 2 to the Legislative Instrument, pertain to the nominated occupational training in relation to an application made on after 19 November 2016 for a Subclass 407 (Training) visa.

The application fee for a Subclass 407 (Training) visa has been reduced (from \$380 to \$275) compared to the visa that it replaced.

Human rights implications

This Legislative Instrument has been considered against each of the seven core international human rights treaties. To the extent that the Legislative Instrument applies to persons within Australia's territory and jurisdiction, the Legislative Instrument positively engages the rights in Articles 6 and 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It does this by allowing visa holders to access occupational training programmes that support their professional development in their chosen occupation as well providing educational opportunities.

Conclusion

This Legislative Instrument is compatible with human rights as it positively engages and supports the rights set out in Articles 6 and 13 of the ICESCR.

The Hon. Peter Dutton, Minister for Immigration and Border Protection