

## **EXPLANATORY STATEMENT**

*Migration Regulations 1994*

### **MIGRATION (IMMI 17/022: ARRANGEMENTS FOR WORK AND HOLIDAY AND WORKING HOLIDAY VISA APPLICATIONS) AMENDMENT INSTRUMENT 2017**

*(1224A(3)(a), 1224A(3)(aa), and 462.221(c))*

1. Instrument IMMI 17/022 is made under paragraphs 1224A(3)(a) and 1224A(3)(aa) of Schedule 1 to the *Migration Regulations 1994* (the Regulations), and paragraph 462.221(c) of Schedule 2 to the Regulations.
2. The instrument amends IMMI 17/003 (F2016L02011) under paragraphs 1224A(3)(a) and 1224A(3)(aa) of Schedule 1 to the Regulations and paragraph 462.221(c) of Schedule 2 to the Regulations in accordance with 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. The operation of the instrument is to specify matters in relation to the making of an application for a Work and Holiday (Temporary) (Class US) visa and criteria to be decided at the time of decision.
4. The purpose of the instrument to:
  - a) specify Vietnam as a foreign country for paragraph 1224A(3)(a) of Schedule 1 to the Regulations, enabling Vietnamese passport holders to make an application for a Work and Holiday (Temporary) (Class US) visa;
  - b) specify for Vietnamese applicants the place and manner for making an application for a Work and Holiday (Temporary) (Class US) visa; and

- c) specify the educational qualifications to be held by a Vietnamese applicant at the time their application is decided.
5. In March 2015, the governments of Australia and Vietnam signed a Memorandum of Understanding to enable Vietnamese passport holders to apply for a Work and Holiday (Temporary) (Class US) visa. In developing this Memorandum of Understanding and prior to making this instrument, consultation was undertaken with the government of Vietnam.
  6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement not required (OBPR Reference 18328).
  7. The officer (Senior Executive Service, Band two, Visa and Citizenship Management Division) who made the instrument was delegated the powers required to make the instrument in Instrument of Delegation DEL 16/067, signed on 9 November 2016.
  8. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
  9. The instrument commences 1 March 2017.