

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (IMMI 17/050: Arrangements for Work and Holiday and Working Holiday Visa Applications) Instrument 2017

(subregulation 2.07(5) of the Regulations, paragraph 1224A(3)(a) subparagraph 1224A(3)(b)(iii) and subitem 1225(5) of Schedule 1 to the Regulations, and paragraphs 462.212(b), 462.221(c) and subclause 417.211(2) of Schedule 2 to the Regulations)

1. Instrument IMMI 17/050 is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations) for items 1224A and 1225 of Schedule 1 to the Regulations, and under paragraphs 462.212(b), 462.221(c) and subclause 417.211(2) of Schedule 2 to the Regulations.
2. The instrument repeals Arrangements for Work and Holiday and Working Holiday Visa Application 2017/003 (IMMI 17/003) (F2017C00150) under subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that 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 instrument operates to:
 - a. specify foreign countries that have issued a valid passport that an applicant making a Work and Holiday (Temporary) (Class US) visa application must hold;
 - b. specify education qualifications that must be held by an applicant for a Subclass 462 (Work and Holiday) visa where the applicant is not, and has not previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa;

- c. specify the approved forms, place and manner for making a valid Working Holiday (Temporary) (Class TZ) and Work and Holiday (Temporary) (Class US) visa application;
 - d. specify the foreign countries that may issue a working holiday eligible passport that an applicant making a Subclass 417 (Working Holiday) visa application must hold;
 - e. specify the upper age limit for applicants making a Subclass 462 (Work and Holiday) visa and Subclass 417 (Working Holiday) visa application; and
 - f. specify that applicants holding a passport issued by specified foreign countries are a class of persons who do not have to provide evidence of government support for the grant of a Work and Holiday (Temporary) (Class US) visa.
4. The purpose of the instrument is to specify the upper age limit for Subclass 462 (Work and Holiday) visa and Subclass 417 (Working Holiday) visa applicants in light of the amendments to Subclause 417.211(2) and 462.212(b) of Schedule 2 to the Regulations, which increase the upper age limit for applicants to 35 years, but also allow for a younger upper age limit to be specified in an instrument. This allows the previous upper age limit of 30 years to be maintained, until bilateral agreement is reached to increase the upper age limit. The purpose of the instrument is to also maintain the requirements previously specified in the replaced instrument Arrangements for Work and Holiday and Working Holiday Visa Application 2017/003 (IMMI 17/003).
5. The purpose of this instrument is also to:
 - a. specify Singapore as a foreign country for paragraph 1224A(3)(a) of Schedule 1 to the Regulations, enabling Singaporean passport holders to make an application for a Work and Holiday (Temporary) (Class US) visa;
 - b. specify the educational qualifications that must be held by applicants from Singapore for a Subclass 462 (Work and Holiday) visa where the applicant is not, and has not previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa;

- c. specify for applicants from Singapore the approved forms, place and manner for making a valid Work and Holiday (Temporary) (Class US) visa application;
 - d. specify that the upper age limit for applicants from Singapore making a Subclass 462 (Work and Holiday) visa application is 30; and
 - e. specify that applicants holding a passport issued by Singapore are a class of persons who do not have to provide evidence of government support for the grant of a Work and Holiday (Temporary)(Class US) visa.
6. Consultation was undertaken before the instrument was made as follows:
 - a. In December 2016 and April 2017, the Department consulted with tourism industry stakeholders in relation to this change through the Tourism Visa Advisory Group.
 - b. In May 2017, the Department convened an interdepartmental committee to consult on implementation of this Working Holiday Maker reform measure. The committee comprised representatives from the following departments and agencies: Immigration and Border Protection; Employment; Foreign Affairs and Trade; Finance; Treasury; Prime Minister and Cabinet; Austrade; Agriculture and Water Resources; and Tourism Australia.
 - c. On 2 May 2017, the governments of Australia and Singapore signed a Memorandum of Understanding to enable Singaporean 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 Singapore.
7. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR References: 22248 (addition of upper age limit) and 22269 (addition of Singapore)).

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. Parts 1 and 2, and Schedules 1, 2, 3, 4 and 7 of this Instrument commence on 1 July 2017. Part 3, and Schedules 5 and 6 of this Instrument commence on 1 August 2017.