

**EXPLANATORY STATEMENT***Migration Regulations 1994***Migration (IMMI 17/097: Arrangements for Work and Holiday and Working Holiday Visa Applications) Instrument 2017**

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

1. Instrument IMMI 17/097 is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations) and 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 *Migration (IMMI 17/050: Arrangements for Work and Holiday and Working Holiday Visa Applications) Instrument 2017* under subsection 33(3) of the *Acts Interpretation Act 1901* (the Interpretation Act). Subsection 33(3) of the Interpretation Act 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 this instrument is to:
- a. update the approved places in the People's Republic of China for making a valid Work and Holiday (Temporary) (Class US) visa;
  - b. specify Peru as a foreign country for paragraph 1224A(3)(a) of Schedule 1 to the Regulations, enabling Peruvian passport holders to make an application for a Work and Holiday (Temporary) (Class US) visa;
  - c. specify the educational qualifications that must be held by applicants from Peru 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;
  - d. specify, for applicants from Peru, the approved forms, place and manner for making a valid Work and Holiday (Temporary) (Class US) visa application; and
  - e. specify that the upper age limit for applicants from Peru making a Subclass 462 (Work and Holiday) visa application is 30.

5. On 24 May 2017, the governments of Australia and Peru signed a Memorandum of Understanding to enable Peruvian 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 Peru.
6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference: 22607).
7. 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.
8. This instrument commences 1 October 2017.