

EXPLANATORY STATEMENT

Migration Act 1958

Migration (IMMI 17/109: Determination of International Trade Obligations relating to Labour Market Testing) Instrument 2017

(Subsection 140GBA(2))

1. Instrument IMMI 17/109 is made under subsection 140GBA(2) of the *Migration Act 1958* (the Act).
2. Instrument IMMI 17/109 repeals IMMI 14/107, IMMI 14/113 and IMMI 15/149 in accordance with 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 determine international trade obligations of Australia for the purposes of paragraph 140GBA(1)(c) of the Act. Paragraph 140GBA(1)(c) provides, in effect, that the labour market testing condition in section 140GBA does not apply to a nomination by an approved sponsor if it would be inconsistent with any international trade obligation of Australia determined in the instrument to require the sponsor to satisfy the labour market testing condition in section 140GBA, in relation to the nominated position.
4. The purpose of the instrument is to:
 - a. give domestic effect to Australia's commitments under international trade agreements to which it is a party. Such commitments have the status of obligations under international law;

- b. consolidate existing instruments, and simplify the obligations by deferring to international trade agreements as the authoritative source on Australia's international trade obligations; and
 - c. reflect the Agreement to Amend the Singapore-Australia Free Trade Agreement (the Amending Agreement).
5. The Department of Foreign Affairs and Trade was consulted before this instrument was made.
6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 20888).
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 immediately following the commencement of Schedule 1 to the *Customs Amendment (Singapore-Australia Free Trade Agreement Amendment Implementation) Act 2017*.
9. Schedule 1 of the *Customs Amendment (Singapore-Australia Free Trade Agreement Amendment Implementation) Act 2017* commences on the day the Amending Agreement enters into force for Australia.
10. The Amending Agreement enters into force upon notification of domestic requirements by both Australia and Singapore. This instrument is a necessary part of Australia's domestic implementation of the amended Singapore-Australia Free Trade Agreement. A notifiable instrument will announce the day the Amending Agreement enters into force for Australia and will be published on the Federal Register of Legislation.