

EXPLANATORY STATEMENT*Migration Regulations 1994***MIGRATION (IMMI 18/043: SPECIFICATION OF OCCUPATIONS — SUBCLASS 187 VISA) INSTRUMENT 2018**

(paragraph 5.19(8)(a), paragraph 5.19(8)(c), subregulation 5.19(13))

1. The instrument, IMMI 18/043, is made under paragraph 5.19(8)(a), paragraph 5.19(8)(c), and subregulation 5.19(13) of the *Migration Regulations 1994* (the Regulations).
2. Regulation 5.19 of the Regulations was repealed and substituted on 18 March 2018 by the *Migration Legislation Amendment (Temporary Skill Shortage Visa and Complementary Reforms) Regulations 2018*. As amended, regulation 5.19 provides for the nomination of positions for the purposes of applications for the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream and the Direct Entry stream. A nomination must identify an occupation that is specified in a legislative instrument at the time the nomination is made. This instrument specifies the occupations that may be nominated from 18 March 2018.
3. Section 5 of the instrument provides that the occupations that may be nominated under regulation 5.19 are the occupations listed in the Medium and Long-term Strategic Skills List (MLTSSL) (section 6) and the Regional Occupation List (ROL) (section 7). Section 8 of the instrument provides that the instrument applies to an application for approval of a nomination made on or after 18 March 2018.
4. The legislative instruments specifying occupations for nominations under regulation 5.19 as in effect prior to 18 March 2018, for the purposes of Subclass 187, were IMMI 17/058 and IMMI 15/109. Those instruments are repealed, with effect from 18 March 2018, by IMMI 18/045. The repealed instruments continue to apply to nominations made prior to 18 March 2018 (see subclause 6705(1) of Part 67 of Schedule 13 to the Regulations).
5. The instrument preserves the status quo in relation to the occupations that were available to be nominated for the Subclass 187 visa under the repealed instruments.

However, the occupations are now listed in either the MLTSSL or the ROL. This is consistent with the classification of occupations adopted across the skilled visa programs. The continued availability of the occupations listed in the ROL for the Subclass 187 visa is an interim position, pending further consideration by Government of the needs of regional Australia. It is anticipated that the ROL will be revised in July 2018 following a review by the Department of Jobs and Small Business, including a public consultation process. The intention of this review will be to ensure that prospective migrants seeking to migrate permanently hold occupations identified as required in Australia's labour market in the medium to long-term, including additional occupations required in Australia's regional areas.

6. The instrument also clarifies (paragraphs 5(1)(b) and 5(2)(b)) that the tasks of the occupation identified in the nomination must correspond to the tasks set out in ANZSCO for that occupation.
7. The instrument notes in section 4 that 'ANZSCO is defined in regulation 1.03 of the Regulations.' Regulation 1.03 of the Regulations provides the following definition of ANZSCO: '**ANZSCO** has the meaning specified by the Minister in an instrument in writing for this definition.' The instrument made under 1.03 for the definition of ANZSCO is IMMI 18/051. Section 5 of IMMI 18/051 provides:

'For the purposes of regulation 1.03 of the Regulations, **ANZSCO** means the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 18 March 2018.'

8. ANZSCO may be accessed on the Australian Bureau of Statistics website (<http://www.abs.gov.au/>).
9. The instrument is part of a broad package of reforms for the employer sponsored skilled visa programs, announced by the Government on 18 April 2017. The Department of Home Affairs has engaged with external stakeholders since the announcement in developing the policy settings and considered feedback received.
10. These reforms were also informed by earlier reviews including: the 2014 *Independent Review into the Integrity of the Subclass 457 programme*; the 2016 Productivity

Commission Inquiry Report: *Migrant Intake into Australia*; the 2016 *Review of the Temporary Skilled Migration Income Threshold*; and the 2016 Senate Inquiry *A National Disgrace: The Exploitation of Temporary Work Visa Holders*. These reviews were subject to extensive consultation processes, including: individuals; academics; bodies and businesses who use the employer sponsored skilled visa programs; migration agents; representatives of foreign governments; the Ministerial Advisory Council on Skilled Migration; and government departments and agencies. The consultation occurred before the instrument was made. This accords with subsection 17(1) of the *Legislation Act 2003* which envisages consultations where appropriate and reasonably practicable.

11. A Regulation Impact statement has been prepared in accordance with advice from the Office of Best Practice Regulation (OBPR). The OBPR reference is 21946.
12. 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.
13. The instrument commences on 18 March 2018.