

EXPLANATORY STATEMENT

Migration Regulations 1994

MIGRATION (IMMI 18/051: SPECIFICATION OF OCCUPATIONS AND ASSESSING AUTHORITIES) INSTRUMENT 2018

(regulation 1.03; subregulation 1.15I(1); subregulation 2.26B(1); subitem 1137(4C) of Schedule 1; item 4 of the table in subitem 1138(4) of Schedule 1; paragraph 1229(3)(k) of Schedule 1; and item 4 of the table in subitem 1230(4) of Schedule 1)

1. Instrument IMMI 18/051 is made under regulation 1.03; subregulation 1.15I(1); subregulation 2.26B(1); subitem 1137(4C) of Schedule 1; item 4 of the table in subitem 1138(4) of Schedule 1; paragraph 1229(3)(k) of Schedule 1; and item 4 of the table in subitem 1230(4) of Schedule 1 to the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals the *Migration (IMMI 18/007: Specification of Occupations and Assessing Authorities) Instrument 2017* in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). Subsection 33(3) of the Acts 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:
 - specify skilled occupations applicable for the class for the purposes of subregulation 1.15I(1);
 - if item 1 of the table in subsection 7(1) applies, specify skilled occupations for the purposes of item 4 of the table in subitem 1137(4B), and item 4 of the table in subitem 1230(4), of Schedule 1 to the Regulations;
 - if item 2 of the table in subsection 7(1) applies, specify skilled occupations for the purposes of paragraph 1229(3)(k) of Schedule 1 to the Regulations;

- if item 3 of the table in subsection 7(1) applies, specify skilled occupations for the purposes of item 4 of the table in subitem 1138(4), and item 4 of the table in subitem 1230(4), of Schedule 1 to the Regulations;
 - if item 4 of the table in subsection 7(1) applies, specify skilled occupations for the purposes of 1230(4) of Schedule 1 to the Regulations;
 - specify persons and bodies as relevant assessing authorities for the purposes of subregulation 2.26B(1); and
 - specify the definition of ANZSCO for the purposes of regulation 1.03.
4. The ways in which the instrument is different from the instrument it replaces, IMMI 18/007, are set out in paragraphs 5 to 14.
 5. This instrument introduces the Regional Occupation List for migration to regional Australia for state and territory nominated applicants of the Skilled Regional (Provisional) (subclass 489) visa, and consequential changes to occupations previously listed on IMMI 18/007, based on labour market advice from the Department of Jobs and Small Business. The amended occupation lists ensure that the entry of skilled foreign workers to Australia remains carefully calibrated to Australia's needs.
 6. Items 1 to 4 of the table in subsection 7(1) establish four classes of persons. Item 4 has been added to the table in subsection 7(1). It establishes a new class of persons: state and territory government nominated applicants for the Skilled Regional (Provisional) (subclass 489) visa. Item 3 to the table in subsection 7(1) of Part 2 has been amended to remove references to persons who make an application for a Subclass 489 (Skilled – Regional (Provisional)) visa.
 7. Subsection 7(3) of Part 2 provides that for the purposes of paragraph 1.15I(1)(a) of the Regulations, each occupation mentioned in column 1 of an item of an applicable list for the class is specified to be a skilled occupation for the class, subject to subsection 8(2) of this instrument. Subsection 7(3) previously referred to subsection 9(2). Subsection 9(2) has been removed as there are no longer any occupations in the Short-term Skilled

Occupation List (STSOL) that are available only to a class specified in the table in subsection 7(1).

8. Column 2 of the table in subsection 7(1) specifies which lists are applicable to each class of persons. The Medium and Long-term Strategic Skills List (MLTSSL), STSOL and Regional Occupation List are applicable lists for the new class of persons specified by item 4.
9. Subsection 8(2) provides that, for the purposes of subsection 7(3), items of the MLTSSL which apply to the classes of persons mentioned in items 1 and 2 of the table in subsection 7(1) are marked with a letter 'A' in column 4. These occupations were previously marked with the letter 'Y'. The effect of subsection 8(2) is that whilst the MLTSSL is an applicable list for all the classes of persons in the table in subsection 7(1), occupations marked 'A' are *only* skilled occupations for the classes of persons in items 1 and 2. The STSOL no longer has a 'column 4' as no occupations on the list are restricted to a class of persons mentioned in the table in subsection 7(1).
10. The Regional Occupation List is set out in the table in subsection 10(1) of Part 2. These occupations are restricted to a new class of persons specified in item 4 of the table in subsection 7(1). The intended effect is to provide a consolidated list of regional occupations available only for state and territory government nominated applicants for the Skilled Regional (Provisional) (subclass 489) visa.
11. The following occupations have been moved from the MLTSSL to the Regional Occupation List:

Occupation	ANZSCO code
horse breeder	121316
project builder	133112
medical administrator	134211
electrical linesworker	342211

12. The following occupations have been moved from the STSOL to the Regional Occupation List:

Occupation	ANZSCO code
post office manager	142115
fitness centre manager	149112

sports centre manager	149113
aeroplane pilot	231111
flying instructor	231113
helicopter pilot	231114
wine maker	234213
agricultural technician	311111
real estate representative	612115
property manager	612112

13. The following new occupations have been added to the Regional Occupation List:

Occupation	ANZSCO code
public relations manager	131114
policy and planning manager	132411
procurement manager	133612
regional education manager	134412
sports administrator	139915
caravan park and camping ground manager	141211
amusement centre manager	149111
cinema or theatre manager	149912
financial institution branch manager	149914
human resource adviser	223111
workplace relations adviser	223113
policy analyst	224412
liaison officer	224912
market research analyst	225112
ship's master	231213
multimedia designer	232413
conservation officer	234311
exercise physiologist	234915
vocational education teacher	242211
environmental health officer	251311
intellectual property lawyer	271214
translator	272413
community arts worker	272611
operating theatre technician	311214
pathology collector	311216
construction estimator	312114
surveying or spatial science technician	312116
mechanical engineering draftsman	312511
safety inspector	312611
maintenance planner	312911
building and engineering technicians (nec)	312999
vehicle painter	324311
floor finisher	332111

zookeeper	361114
nurseryperson	362411
gas or petroleum operator	399212
dental hygienist	411211
dental therapist	411214
emergency service worker	441211
driving instructor	451211
funeral workers (nec)	451399
flight attendant	451711
first aid trainer	451815
jockey	452413
clinical coder	599915

14. In subsection 10 of part 2, the meaning of “SPA” has been updated from “Speech Pathology Association of Australia” to “Speech Pathology Australia”.
15. The application provision in Part 2 of Schedule 1 to the instruments provides that the repealed instrument continues in force in relation to the following:
- each person included in a class of persons mentioned in column 1 of items 1 and 3 in the table in subsection 7(1) of the repealed instrument, if the invitation mentioned in those items is issued before 18 March 2018;
 - a person included in the class of persons mentioned in column 1 of item 2 in the table in subsection 7(1) of the repealed instrument, if the visa application mentioned in that item is made by that person before 18 March 2018.
16. The subject of this instrument is part of a broad package of reforms for the employer sponsored skilled visa programs, announced by the Government on 18 April 2017, to replace the Subclass 457 visa with the Subclass 482 visa, and make consequential amendments to permanent skilled visas. One element of these reforms was to introduce a list of occupations available for skilled migration to regional Australia, as defined by the Migration Regulations. The Department of Home Affairs has engaged with external stakeholders since the announcement in developing the policy settings and considered feedback received. Some settings of the existing framework have been carried over without amendment, and have not been the subject of consultation.

17. 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.
18. A Regulation Impact Statement has been prepared in accordance with advice from the Office of Best Practice Regulation (OBPR). The OBPR Reference numbers are 21946 and 22132.
19. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, this instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
20. The instrument commences on 18 March 2018.