

EXPLANATORY STATEMENT*Migration Regulations 1994***Migration (LIN 18/173: Arrangements for Working Holiday Visa Applications)****Instrument 2018**

(Subregulation 2.07(5), subitem 1225(5) of Schedule 1 and subclause 417.211(2) of Schedule 2 to the Regulations)

1. The instrument, LIN 18/173, is made under subregulation 2.07(5), subitem 1225(5) of Schedule 1 and subclause 417.211(2) of Schedule 2 to the *Migration Regulations 1994* (the Regulations).
2. The instrument amends IMMI 18/102 (F2018L00773) made under subregulation 2.07(5), paragraph 1224A(3)(a), subparagraph 1224A(3)(b)(iii) and subitem 1225(5) of Schedule 1 and subclause 417.211(2) and paragraphs 462.212(b) and 462.221(c) of Schedule 2 to the Regulations and in accordance with 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 specify the requirements for making an application for a Working Holiday (Temporary) (Class TZ) visa. For the purposes of subitem 1225(1) of Schedule 1 to the Regulations, the instrument specifies the approved forms for making an application. For the purposes of subitem 1225(3) of Schedule 1 to the Regulations, the instrument specifies the place and manner in which an application is to be made.
4. The instrument also operates to outline the criteria for a Subclass 417 (Working Holiday) visa. Under paragraph 417.211(2)(a) of the Regulations, a working holiday eligible passport must be held by a person seeking to meet the criteria for a Subclass 417 (Working Holiday) visa. The instrument specifies the foreign countries that may issue a working holiday eligible passport and the conditions that passport must satisfy to be working holiday eligible. Furthermore, for the purposes of paragraph 417.211(2)(a)

- and subparagraph 417.211(2)(b)(ii) of the Regulations, the instrument specifies the upper age limit for persons holding a specified passport, seeking to meet the criteria for a Subclass 417 (Working Holiday) visa.
5. The purpose of the instrument is to increase the eligible age range for Canadian and Irish applicants for the Subclass 417 (Working Holiday) visa, from an upper age limit of 30 to 35.
 6. The change is in response to the Government's announcement in September 2016 of a Working Holiday Maker reform package. The reform package included a measure to expand the eligibility age for Subclass 417 (Working Holiday) visa and Subclass 462 (Work and Holiday) visa applicants from 18-30 years to 18-35 years to improve the supply of Working Holiday Makers in Australia.
 7. Consultation was undertaken before the instrument was made as follows:
 - a. The Department consulted in December 2016 and April 2017 with tourism industry stakeholders through the Tourism Visa Advisory Group in relation to the government's decision to increase the eligibility age from 30 to 35 years. Additionally, the Department consulted with the Department of Employment, the Department of Foreign Affairs and Trade, the Department of Finance, Treasury, Department of Agriculture and Water Resources and Tourism Australia on implementation of the age increase.
 - b. The Department commenced bilateral negotiations with partner countries through a phased approach. Canada and Ireland have agreed to also implement the age increase.
 8. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 22248).
 9. The officer (Senior Executive Service, Band One, Immigration and Visa Services Division) who made the instrument was delegated the powers required to make the instrument in *Minister – Delegations Instrument No. 5 of 2018 (Instrument Making Powers) (MHA No. 5 of 2018)*, signed on 10 April 2018.

10. 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.

11. The instrument commences on 1 November 2018.