

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 18/197: Areas of Australia and Kinds of Specified Work for Subclass 462 (Work and Holiday) visas) Instrument 2018

(regulation 1.15FA of the Regulations)

1. The instrument, LIN 18/197, is made under regulation 1.15FA of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals IMMI 17/092 (F2017L01116) made under regulation 1.15FA of 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, for Subclass 462 (Work and Holiday) visa applicants, the areas of Australia and the kinds of work that fall within the definition of ***specified Subclass 462 work*** in regulation 1.03 of the Regulations. If an applicant for a Subclass 462 (Work and Holiday) visa is, or has previously been, in Australia as the holder of that visa, the applicant must have carried out a period of ***specified Subclass 462 work*** while they were the holder of that visa.
4. The purpose of the instrument is to specify additional areas of Australia represented by their postcodes for the purposes of the definition of ***specified Subclass 462 work***. Additional areas of Australia represented by their postcodes for New South Wales, Norfolk Island, Queensland, South Australia, Victoria, Western Australia and Tasmania have been included in the instrument. Work carried out in these additional areas must only be for the additional kinds of work specified in Schedule 4 of the instrument. The additional kinds of work specified in Schedule 4 of the instrument are for plant and animal cultivation.

5. ***Specified Subclass 462 work*** for existing areas represented by their postcodes in the Northern Territory, Queensland and Western Australia remain unchanged from IMMI 17/092. These areas are contained in Part 1 of Schedule 1 of the instrument. Work carried out in these areas can be for the kinds of work specified in Schedules 2, 3 and 4 of the instrument. The kinds of work specified in these Schedules are for the tourism and hospitality industry, plant and animal cultivation, fishing and pearling and tree farming and felling.
6. Consultation was undertaken with relevant government agencies including the Department of Agriculture and Water Resources.
7. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 24272).
8. The officer (acting Senior Executive Service, Band one, Immigration and Visa Services Division) who made the instrument was delegated the powers required to make the instrument in the *MHA No. 5 of 2018*, signed on 10 April 2018.
9. 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.
10. The instrument commences on the day that this instrument is registered on the Federal Register of Legislation.