

EXPLANATORY STATEMENT

Migration Regulations 1994

MIGRATION (LIN 19/051: SPECIFICATION OF OCCUPATIONS AND ASSESSING AUTHORITIES) INSTRUMENT 2019

(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. This instrument 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 18/051: Specification of Occupations and Assessing Authorities) Instrument 2017* (the old law) 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 skilled occupations and assessing authorities applicable to a person:
 - a. who is issued an invitation to apply for a:
 - i. Subclass 189 (Skilled – Independent) (Subclass 189) visa;
 - ii. Subclass 190 (Skilled – Nominated) (Subclass 190) visa; or
 - iii. Subclass 489 (Skilled – Regional (Provisional)) (Subclass 489) visa;
 - b. who applied for a Subclass 485 (Temporary Graduate) (Subclass 485) visa; or
 - c. who is the spouse or de facto partner of the person specified in a. or b. above.
4. The specified occupations are allocated to three different skilled occupations lists being:
 - a. the Medium and Long-term Strategic Skills List (MLTSSL);
 - b. the Short-term Skilled Occupation List (STSOL); and

- c. the Regional Occupation List (ROL).
5. The purpose of the instrument is to update the occupations included in the skilled occupations lists. The occupation allocation is based on labour market advice provided by the Department of Jobs and Small Business. The update to the skilled occupations lists ensures that the entry of skilled foreign workers to Australia remains carefully calibrated to Australia's needs.
6. Specifically, changes from the old law in the instrument are as follows:
- a. Adding the following 36 occupations into the MLTSSL:
 - i. Arts Administrator or Manager (ANZSCO code 139911)
 - ii. Dancer or Choreographer (ANZSCO code 211112)
 - iii. Music Director (ANZSCO code 211212)
 - iv. Artistic Director (ANZSCO code 212111)
 - v. Tennis Coach (ANZSCO code 452316)
 - vi. Footballer (ANZSCO code 452411)
 - vii. Environmental Manager (ANZSCO code 139912)
 - viii. Musician (Instrumental) (ANZSCO code 211213)
 - ix. Statistician (ANZSCO code 224113)
 - x. Economist (ANZSCO code 224311)
 - xi. Mining Engineer (excluding Petroleum) (ANZSCO code 233611)
 - xii. Petroleum Engineer (ANZSCO code 233612)
 - xiii. Engineering Professionals nec (ANZSCO code 233999)
 - xiv. Chemist (ANZSCO code 234211)
 - xv. Food Technologist (ANZSCO code 234212)
 - xvi. Environmental Consultant (ANZSCO code 234312)
 - xvii. Environmental Research Scientist (ANZSCO code 234313)
 - xviii. Environmental Scientists nec (ANZSCO code 234399)
 - xix. Geophysicist (ANZSCO code 234412)
 - xx. Hydrogeologist (ANZSCO code 234413)
 - xxi. Life Scientist (General) (ANZSCO code 234511)
 - xxii. Biochemist (ANZSCO code 234513)
 - xxiii. Biotechnologist (ANZSCO code 234514)
 - xxiv. Botanist (ANZSCO code 234515)

- xxv. Marine Biologist (ANZSCO code 234516)
 - xxvi. Microbiologist (ANZSCO code 234517)
 - xxvii. Zoologist (ANZSCO code 234518)
 - xxviii. Life Scientists nec (ANZSCO code 234599)
 - xxix. Conservator (ANZSCO code 234911)
 - xxx. Metallurgist (ANZSCO code 234912)
 - xxxi. Meteorologist (ANZSCO code 234913)
 - xxxii. Natural and Physical Science Professionals nec (ANZSCO code 234999)
 - xxxiii. University Lecturer (ANZSCO code 242111)
 - xxxiv. Multimedia Specialist (ANZSCO code 261211)
 - xxxv. Software and Applications Programmers nec (ANZSCO code 261399)
 - xxxvi. Horse Trainer (ANZSCO code 361112)
- b. The occupation of Physicist (ANZSCO code 234914) in the MLTSSL is no longer restricted to medical physicists only.
- c. The restriction on the following occupations on the MLTSSL, which were only applicable to certain persons in the old law, are applicable to all persons mentioned at paragraph 3 above:
- i. Telecommunications network planner (ANZSCO code 313213)
 - ii. Pressure welder (ANZSCO code 322312)
- d. The following 27 occupations are no longer a part of the STSOL:
- i. Visual Arts and Crafts Professionals (ANZSCO code 211499)
 - ii. Textile, Clothing and Footwear Mechanic (ANZSCO code 323215)
 - iii. Watch and Clock Maker and Repairer (ANZSCO code 323316)
 - iv. Chemical Plant Operator (ANZSCO code 399211)
 - v. Library Technician (ANZSCO code 399312)
 - vi. Arts Administrator or Manager (ANZSCO code 139911)
 - vii. Dancer or Choreographer (ANZSCO code 211112)
 - viii. Music Director (ANZSCO code 211212)
 - ix. Artistic Director (ANZSCO code 212111)
 - x. Footballer (ANZSCO code 452411)
 - xi. Aquaculture Farmer (ANZSCO code 121111)
 - xii. Cotton Grower (ANZSCO code 121211)

- xiii. Fruit or Nut Grower (ANZSCO code 121213)
 - xiv. Grain, Oilseed or Pasture Grower (ANZSCO code 121214)
 - xv. Mixed Crop Farmer (ANZSCO code 121216)
 - xvi. Sugar Cane Grower (ANZSCO code 121217)
 - xvii. Crop Farmers nec (ANZSCO code 121299)
 - xviii. Beef Cattle Farmer (ANZSCO code 121312)
 - xix. Dairy Cattle Farmer (ANZSCO code 121313)
 - xx. Mixed Livestock Farmer (ANZSCO code 121317)
 - xxi. Pig Farmer (ANZSCO code 121318)
 - xxii. Sheep Farmer (ANZSCO code 121322)
 - xxiii. Livestock Farmers nec (ANZSCO code 121399)
 - xxiv. Mixed Crop and Livestock Farmer (ANZSCO code 121411)
 - xxv. Dentist (ANZSCO code 252312)
 - xxvi. Anaesthetist (ANZSCO code 253211)
 - xxvii. Tennis Coach (ANZSCO code 4542316)
- e. Adding the following 18 occupations to the Regional Occupation List:
- i. Aquaculture Farmer (ANZSCO code 121111)
 - ii. Cotton Grower (ANZSCO code 121211)
 - iii. Fruit or Nut Grower (ANZSCO code 121213)
 - iv. Grain, Oilseed or Pasture Grower (Aus)/field crop grower (NZ) (ANZSCO code 121214)
 - v. Mixed Crop Farmer (ANZSCO code 121216)
 - vi. Sugar Cane Grower (ANZSCO code 121217)
 - vii. Crop Farmers nec (ANZSCO code 121299)
 - viii. Beef Cattle Farmer (ANZSCO code 121312)
 - ix. Dairy Cattle Farmer (ANZSCO code 121313)
 - x. Mixed Livestock Farmer (ANZSCO code 121317)
 - xi. Deer Farmer (ANZSCO code 121314)
 - xii. Goat Farmer (ANZSCO code 121315)
 - xiii. Pig Farmer (ANZSCO code 121318)
 - xiv. Sheep Farmer (ANZSCO code 121322)
 - xv. Livestock Farmers nec (ANZSCO code 121399)
 - xvi. Mixed Crop and Livestock Farmer (ANZSCO code 121411)

- xvii. Dentist (ANZSCO code 252312)
 - xviii. Anaesthetist (ANZSCO code 253211)
- f. The following assessing authorities have made changes which are reflected in the instrument:
- i. Family Support Worker from VETASSESS to ACWA
 - ii. Residential Care Officer from VETASSESS to ACWA
 - iii. Disabilities Services Officer from VETASSESS to ACWA
 - iv. Podiatrist from APodA or ANZPAC to ANZPAC
- g. Ensuring the name of the following assessing authorities match those registered with the Australian Securities and Investments Commission (ASIC):
- i. Architects Accreditation Council of Australia Inc to Architects Accreditation Council of Australia
 - ii. Australian Association of Social Workers to Australian Association of Social Workers Limited
 - iii. Australian Computer Society to Australian Computer Society Incorporated
 - iv. Australian Community Workers Association to Australian Community Workers Association Inc.
 - v. Australian Dental Council to Australian Dental Council Limited
 - vi. Australian Institute of Quantity Surveyors to The Australian Institute of Quantity Surveyors
 - vii. Australian Institute for Teaching and School Leadership to Australian Institute for Teaching and School Leadership Limited
 - viii. Australian and New Zealand Podiatry Accreditation Council Inc. to Australian and New Zealand Podiatry Accreditation Council Limited
 - ix. Australasian Osteopathic Accreditation Council to Australasian Osteopathic Accreditation Council Limited
 - x. Australian Orthotic Prosthetic Association to Australian Orthotic Prosthetic Association Limited
 - xi. Australian Physiotherapy Council to Australian Physiotherapy Council Limited
 - xii. Australian Pharmacy Council to Australian Pharmacy Council Limited

- xiii. Australian Psychological Society to Australian Psychological Society Limited
- xiv. Australasian Veterinary Boards Council Inc. to Australasian Veterinary Boards Council Incorporated
- xv. Institution of Engineers Australia to The Institution of Engineers Australia
- xvi. Institute of Public Accountants to Institute of Public Accountants Ltd
- xvii. National Accreditation Authority for Translators and Interpreters to National Accreditation Authority for Translators and Interpreters Ltd
- xviii. Optometry Council of Australia and New Zealand to Optometry Council of Australia and New Zealand Limited
- xix. Occupational Therapy Council (Australia and New Zealand) Limited to Occupational Therapy Council of Australia Limited
- xx. Speech Pathology Australia to The Speech Pathology Association of Australia Limited
- xxi. Surveying and Spatial Sciences Institute to Surveying and Spatial Sciences Institute Limited

h. The ‘Australian Podiatry Association’ is no longer an assessing authority as it is no longer an assessing authority for the occupation of ‘Podiatrist’.

7. The Minister’s power to make an instrument under subregulation 2.26B(1) of the Regulations to specify assessing authorities, is subject to subregulation 2.26B(1A), which provides that the Minister must not make an instrument under subregulation 2.26B(1) unless the person or body has been approved in writing as the relevant assessing authority for the occupation by the Education Minister or the Employment Minister. The Education Minister has approved the changes to the assessing authorities in writing.

8. The instrument only applies to

- invitations issued by the Department of Home Affairs (the Department); or
- applications made by a person

on or after its commencement.

9. The application provision in section 13 of Part 3 to the instrument provides that, despite its repeal, the old law continues to apply to persons who are issued invitations to apply by the Department or have made applications (as the case may be) after 18 March 2018 but before the commencement of the instrument. This ensures that the proposed changes to the skilled occupations lists and assessing authorities do not affect those persons who have been issued an invitation to apply for a Subclass 189, 190, 489 visa or have applied for a Subclass 485 visa before the commencement date.
10. Consultation was undertaken before the instrument was made with the Department of Jobs and Small Business. The Department of Jobs and Small Business conducted a review of the skilled migration occupation lists. The review included receiving public submissions, meetings with employers and industry peak bodies and inter-departmental committee meetings.
11. A Regulation Impact Statement has been prepared in accordance with advice from the Office of Best Practice Regulation (OBPR). The OBPR Reference number is 23806.
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 the day after registration on the Federal Register of Legislation.