

EXPLANATORY STATEMENT

Migration Regulations 1994

MIGRATION (LIN 19/188: ARRANGEMENT FOR APPROVAL AND VARIATION OF APPROVAL FOR A TEMPORARY PARENT SPONSOR) INSTRUMENT 2019

(paragraph 2.61A(4)(b); paragraph 2.61A(4)(c); subregulation 2.66(3); subregulation 2.66(4))

1. The instrument, LIN 19/188 is made under paragraph 2.61A(4)(b), paragraph 2.61A(4)(c), subregulation 2.66(3), and subregulation 2.66(4) of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals *Migration (LIN 19/147: Arrangements for Sponsorship for Temporary Sponsored Parent Visa) Instrument 2019* (F2019L00596) 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. This instrument operates to specify the form and fee required for applications for approval as a family sponsor and applications for variation of terms of approval as a parent sponsor.
4. The instrument also repeals instrument (LIN 19/147). The instrument differs from the repealed instrument by clarifying that the form for applying for approval as a family sponsor, Form 1501, is an internet form; and by including a specification of the form and fee for making an application for variation of approval of terms as a parent sponsor. The instrument supports the *Migration Amendment (Temporary Sponsored Parent Visa and Other Measures) Regulations 2019*, which commenced 17 April 2019.
5. The amount of both the fees for an application for approval as a family sponsor under paragraph 2.61(3)(c) of the Regulations and for variation of terms of approval as a parent sponsor under subregulation 2.66(4) are calculated on the basis of cost recovery using departmental data for direct and indirect costs incurred in undertaking the activity or function. This includes staffing and relevant ongoing costs of suppliers, IT, property, contractors/consultants and corporate overheads where appropriate.

6. Consultation was undertaken before the instrument was made, in accordance with subsection 17(1) of the *Legislation Act 2003*, which envisages consultations where appropriate and reasonably practicable. The Department consulted with other relevant government agencies and community stakeholders prior to the Government's announcement of 4 May 2017, that it would implement the Subclass 870 (Sponsored Parent (Temporary)) visa as part of the 2017-18 Budget measures. The Department consulted with the following agencies:
 - a. Attorney-General's Department;
 - b. Australian Taxation Office;
 - c. Department of Finance;
 - d. Department of Health;
 - e. Department of Human Services;
 - f. Department of the Prime Minister and Cabinet;
 - g. Department of Social Services;
 - h. The Treasury.
7. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement (RIS) is required (OBPR Reference: 21913). The RIS has been provided.
8. Under section 42 of the *Legislation Act 2003*, the instrument is subject to disallowance. A Statement of Compatibility with Human Rights has been provided, at Attachment A.
9. The instrument commences the day after registration on the Federal Register of Legislation.

Attachment A**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration (LIN 19/188: Arrangement for Approval and Variation of Approval for a Temporary Parent Sponsor) Instrument 2019

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

This instrument operates to specify the form and fee required for applications for approval as a parent sponsor and applications for variation of approval as a parent sponsor.

The purpose of the remade instrument is to remake the existing specifications for approval as a family sponsor and clarify that the form for applying for approval as a family sponsor, Form 1501, is an internet form. Further, the instrument specifies the form and fee for making an application for variation of approval as a parent sponsor. The instrument supports the *Migration Amendment (Temporary Sponsored Parent Visa and Other Measures) Regulations 2019*, which commenced 17 April 2019.

Human rights implications

This Disallowable Legislative Instrument does not engage human rights, as it is a technical measure to support applications for the subclass 870 visa.

Conclusion

This Disallowable Legislative Instrument does not engage human rights.