

EXPLANATORY STATEMENT

Migration Act 1958

Migration (LIN 18/191: Substantive Visa Classes) Instrument 2018

(Paragraphs 82(2AA)(a) and (b) of the Act)

1. The instrument, LIN 18/191, is made under paragraphs 82(2AA)(a) and (b) of the *Migration Act 1958* (the Act).
2. The instrument repeals IMMI 09/058 (F2009L02362) made under paragraphs 82(2AA)(a) and (b) of the Act 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. Subsection 82(2) of the Act provides that a substantive visa held by a non-citizen ceases to be in effect if another substantive visa for the non-citizen comes into effect. Paragraph 82(2AA)(a) of the Act provides that, despite subsection 82(2) of the Act, a maritime crew visa held by a non-citizen does not cease to be in effect if a substantive visa comes into effect that is of a class specified by the Minister. Similarly, paragraph 82(2AA)(b) of the Act provides that a substantive visa, held by a non-citizen and that of a class specified by the Minister, does not cease to be in effect if a maritime crew visa comes into effect. These classes of substantive visas specified by the Minister can therefore be held concurrently with a maritime crew visa.
4. The instrument operates to specify all visas that are both substantive and temporary (a ***substantive temporary visa***) as a class of substantive visa.
5. The purpose of the instrument is to remove the reference to special purpose visas granted to a person on the grounds that they are a member of the crew on a non-military ship, or a spouse, de-facto partner or dependant of a member of the crew. This reference

has been removed as it is now redundant. This is because there are no holders of a special purpose visa granted on those grounds.

6. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003* consultation was not necessary. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements.
7. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 24577).
8. 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.
9. The instrument commences on the day after registration on the Federal Register of Legislation.