

## **EXPLANATORY STATEMENT**

### *Migration Regulations 1994*

#### **Migration (LIN 19/267: Regional Certifying Bodies and Regional Postcodes)**

#### **Amendment Instrument 2019**

*(subregulation 5.19(16))*

1. The instrument, LIN 19/267, is made under subregulation 5.19(16) of the *Migration Regulations 1994* (the Regulations).
2. The instrument amends *Migration (IMMI 18/037: Regional Certifying Bodies and Regional Postcodes) Instrument 2018* (F2018L00291) made under subparagraph 5.19(12)(g)(i) and subregulation 5.19(16) 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 purpose of the instrument is to amend IMMI 18/037 to remove references to “regional Australia” as defined under subregulation 5.19(16) of the Regulations. As part of the package introducing new regional visas, a new instrument, *Migration (LIN 19/217: Regional Areas) Instrument 2019*, specifies the parts of Australia that are regional Australia under subregulation 5.19(16) of the Regulations. Amending IMMI 18/037 to remove references to regional Australia ensures two instruments that specify regional Australia for the purposes of subregulation 5.19(16) do not operate concurrently.
4. Section 17 of the *Legislation Act 2003* requires consultations, which are appropriate and reasonably practicable to be undertaken. The following Commonwealth government agencies were consulted in relation to the instrument: the Department of Prime Minister and Cabinet; the Department of Foreign Affairs and Trade; the Attorney-General’s Department; the Department of the Treasury; the Department of Finance; the Department of Social Services; the Department of Education; the

Department of Employment, Skills, Small and Family Business; the Department of Industry, Innovation and Science; the Department of Infrastructure, Transport, Cities and Regional Development; the Department of Health; and the Department of Human Services.

5. Pursuant to the frequency and volume of the legislative amendments that are required to maintain a dynamic and responsive immigration system, it has been a consistent practice to include certain criteria and conditions in delegated legislation. The criteria for the Subclass 187 visa is included in delegated legislation rather than primary legislation to give the Government oversight and the ability to respond in a timely and transparent manner to emerging situations which may include changes in the labour market and the economy. In addition, instruments made under delegated legislation are subject to the scrutiny framework out in the *Legislation Act 2003*, and oversight of the amendments is available to the Parliament under the same legislation.
6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 25045).
7. 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.
8. The whole of this instrument commences at the same time as Schedule 2 to the *Migration Amendment (New Skilled Regional Visas) Regulations 2019*.