

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 19/296: Arrangements for Applications for Bridging Visas) Amendment Instrument 2019

(subregulation 2.07(5))

1. The instrument, LIN 19/296, is made under subregulation 2.07(5) for the purposes of subitems 1301(1), 1302(1), 1303(1), 1304(1), 1305(1) and 1306(1) of Schedule 1 of the *Migration Regulations 1994* (the Regulations).
2. The instrument amends *Migration (LIN 19/186: Arrangements for Applications for Bridging Visas) Instrument 2019* (F2019L00883) made under subregulation 2.07(5) of the Regulations, 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. LIN 19/186 operates to specify the arrangements for applications for bridging visas under subregulation 2.07(5) of the Regulations, specifying the requirements in relation to an approved form for making an application, the manner an application for a visa must be made, and the place where an application must be made. This instrument specifies these requirements for Bridging A (Class WA), Bridging B (Class WB), Bridging C (Class WC), Bridging D (Class WD), Bridging E (Class WE) and Bridging F (Class WF) visas.
4. The purpose of the instrument is to address changes to the Regulations by the *Migration Amendment (New Skilled Regional Visas) Regulations 2019* (the Amendment Regulations) which, among other things, will introduce the Subclass 491 (Skilled Work Regional (Provisional)) visa (Subclass 491 visa) and the Subclass 494 (Skilled Employer Sponsored Regional) (Provisional) visa (Subclass 494 visa).
5. Specifically, the instrument specifies forms 491D and 494V (Internet) as approved forms for Bridging A (Class WA) and Bridging C (Class WC) visa applications. This ensures that applicants who make an application for a substantive visa using approved

forms 491D and 494V (Internet) will be able to make a combined application for a bridging visa with their application for a substantive visa.

6. The instrument also specifies approved form 494V for Bridging A (Class WA) and Bridging C (Class WC) visa applications, for applicants who have been authorised by the Department to make an application for a substantive visa using that form. This ensures that applicants who make their application for a substantive visa using approved form 494V can make a combined application for a bridging visa using that form.
7. The subject of this instrument is part of a package introducing new regional visas designed to deliver a migration program that can respond more effectively to the needs of regional Australia. These changes will also assist with governmental priorities to attract highly skilled migrants to regional areas and ease population pressure in major cities.
8. Pursuant to the frequency and volume of the legislative amendments that are required to maintain a dynamic and responsive immigration program, it has been a consistent practice to include certain criteria and conditions in delegated legislation. The criteria for the new Subclass 491 and 494 visas have been 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.
9. 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: Attorney-General's Department; Department of Education; Department of Finance; Department of Foreign Affairs and Trade; Department of Health; Department of Human Services; Department of Industry, Innovation and Science; Department of Infrastructure, Transport, Cities and Regional Development; Department of Employment, Skills, Small and Family Business; Department of the Prime Minister and Cabinet; Department of Social Services; and the Treasury.

10. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 25045).
11. This instrument is made under Part 2 of the Regulations. Under item 20 of the table in 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.
12. The instrument commences at the same time as the commencement of Schedule 1 and Schedule 2 to the Amendment Regulations.