

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 20/001: Payment of Visa Application Charges and Fees in Foreign Currencies) Instrument 2020

(Paragraphs 5.36(1)(a) and (b), and 5.36(1A)(a))

1. The *Migration (LIN 20/001: Payment of Visa Application Charges and Fees in Foreign Currencies) Instrument 2020* is made under paragraphs 5.36(1)(a) and (b), and 5.36(1A)(a) of the *Migration Regulations 1994* (Regulations).
2. The instrument repeals the instruments *Migration (LIN 19/041: Payment of Visa Application Charges and Fees in Foreign Currencies) Instrument 2019* (F2019L00885) under paragraph 5.36(1A)(a) of the Regulations, and *Migration (LIN 19/042: Places and Currencies for Paying of Fees) Instrument 2019* (F2019L00886) under paragraphs 5.36(1)(a) and (b) of the Regulations, and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (Interpretation Act). Subsection 33(3) of the Interpretation Act 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. Paragraphs 5.36(1)(a) of the Regulations states that the payment of a fee, other than a visa application charge mentioned in regulation 5.36(3A) of the Regulations must be made in a place, being Australia or a foreign country, that is specified by the Minister in a legislative instrument. Foreign country is defined in section 2B of the Interpretation Act.
4. Paragraphs 5.36(1)(b) of the Regulations states further that payment of a fee, must be made in a currency that is specified by the Minister in a legislative instrument.
5. Paragraph 5.36(1A)(a) of the Regulations states that the amount of the payment is to be worked out by using the exchange rate in relation to the Australian Dollar (AUD) for the currency specified in a legislative instrument.
6. Paragraph 5.36(1A)(b) of the Regulations states that if the currency in which the amount is to be paid is not specified in an instrument, the formula in subregulation 5.36(2) of the Regulations must be used.
7. Subregulation 5.36(4) of the Regulations defines *fee* for the purposes of regulation 5.36 of the Regulations.

8. The table in Schedule 1 to the instrument provides, in Column A, places including Australia and foreign countries, where a payment of a fee must be made in the corresponding currency specified in Column B for that place.
9. The table in Schedule 2 to the instrument provides, in Column A, the currency of a foreign country, in Column B, the corresponding International Organization for Standardization (ISO) code and in Column C, the exchange rate of the currency in relation to the AUD, for that item.
10. The purpose of the instrument is to undertake the biannual update of the places and their corresponding currencies in which payment of a fee may be made and also, the foreign currency exchange rates in relation to the AUD.
11. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not necessary because changes to the previous repealed instruments are minor or machinery in nature and do not substantially alter existing arrangements.
12. The Acting Chief Financial Officer, Finance Division, who made the instrument was delegated the powers required to make the instrument in the *Instrument Making Powers (Minister) Instrument 2019/228*, signed on 12 September 2019.
13. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required. The OBPR Reference is 25184.
14. Under subitem 20 (b) of 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.
15. The instrument commences on 1 January 2020.