

## **EXPLANATORY STATEMENT**

*Migration Regulations 1994*

### **Migration (LIN 20/099: Class of persons for student (Temporary) (Class TU) visa Applications) Instrument 2020**

*(subitem 1222(5))*

1. Instrument LIN 20/099 is made under paragraph 1222(5)(a) of Schedule 1 to the *Migration Regulations 1994* (the Regulations), for the purposes of subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations.
2. The Instrument repeals *Migration (IMMI 18/013: Classes of persons for student (Temporary) (Class TU) visa) Instrument 2018* under paragraph 1222(5)(a) of Schedule 1 to the Regulations and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which states 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 instrument operates for the Minister to specify classes of persons to whom subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies. For applicants included in these classes of persons, the first instalment of the visa application charge amount is nil.
4. As a response to the cancellation of visas as a direct consequence of the Covid-19 pandemic, the instrument creates arrangements for applicants who are in Australia and who are former Student (Temporary) (Class TU) visa holders and whose visas were cancelled due to the risk of a Public Health Emergency of International Concern designated by the World Health Organisation, to the health, safety or good order the Australian community, or a segment of that community.

5. Consultation was undertaken with the Department of Health and industry stakeholders concerning the Public Health Emergency of International Concern and the need for cancellation of visas.
6. The Office of Best Practice Regulation (OBPR) has been consulted and has advised that a Regulatory Impact Statement is not required for the instrument (OBPR Reference No: 26268).
7. The Senior Executive Service, Band 2 officer in the Immigration and Community Protection Policy Division who made the instrument was delegated the powers required to make the instrument in *Instrument Making Powers (Minister) Instrument 2019/228* (LIN 19/228), signed on 12 September 2019.
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 of the Federal Register of Legislation.