

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 20/104: Subclass 462 (Work and Holiday) Visa – Specified Areas of Australia and Kinds of Work) Instrument 2020

(Regulation 1.15FA)

1. The instrument, LIN 20/104, is made under regulation 1.15FA of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals the *Migration (LIN 18/197: Areas of Australia and Kinds of Specified Work for Subclass 462 (Work and Holiday) visas) Instrument 2018* (LIN 18/197) (F2018L01539), made under regulation 1.15FA 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. The instrument operates to specify **areas of Australia** and **kinds of work** for the purposes of the definition of **specified Subclass 462 work** in regulation 1.03 of the Regulations. Paragraphs 462.218(a) and 462.219(a) of Schedule 2 to the Regulations require that applicants for a second or third Subclass 462 (Work and Holiday) visa to have carried out a period or periods of specified Subclass 462 work.
4. One of the purposes of the instrument is to specify, in subsection 6(c), areas of Australia affected by bushfires occurring after 31 July 2019 and before 1 March 2020 as areas of Australia.
5. Another purpose is to specify bushfire recovery work as work undertaken, including work undertaken on a volunteer basis, carried out after 31 July 2019 in an area specified in subsection 6(c), as a kind of work. Bushfire recovery work is defined in section 4 of the instrument.

6. The last purpose is to specify construction work as a kind of work for areas specified in subsection 6(a) and subsection 6(b), in alignment with specified work for Subclass 417 (Working Holiday) visa.
7. Other than those changes, the instrument maintains the areas of Australia and kinds of work that were specified in LIN 18/197.
8. The specification of bushfire affected areas as areas of Australia and bushfire recovery work as a kind of work enables Subclass 462 visa holders to assist in bushfire recovery efforts in affected areas after 31 July 2019. As a result, these visa holders can count such work, including work undertaken as volunteer work, towards their eligibility for a second or third Subclass 462 visa application.
9. Consultation was undertaken before the instrument was made with the National Bushfire Recovery Agency, the Department of Education, Skills and Employment, and Commonwealth departments' Secretaries through Inter-departmental Committee meetings. This consultation was in relation to the specification of bushfire affected areas as areas of Australia, and construction and bushfire recovery work as kinds of work. For other parts of the instrument that remain unchanged from the previous instrument LIN 18/197, no further consultation was required.
10. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR reference 26175).
11. The officer 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.
12. 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.
13. The instrument commences on the day after it is registered on the Federal Register of Legislation.