

EXPLANATORY STATEMENT

Issued by authority of the Minister

Migration Regulations 1994

Migration (Places and currencies for paying of fees) Instrument (LIN 22/002) 2022

- 1 The instrument, Departmental reference LIN 22/002, is made under paragraphs 5.36(1)(a) and (b) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument repeals *Migration (Places and Currencies for Paying of Fees) Instrument (LIN 21/004) 2021 (No. 2)* (LIN 21/004) (F2021L00739) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences on 1 January 2022, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 A number of fees and charges are payable in relation to visa applications. Subregulation 5.36(1) of the Regulations provides that the payment of certain fees must be made:
 - in a place, being Australia or a foreign country, that is specified for paragraph 5.36(1)(a); and
 - in a currency that is specified for paragraph 5.36(1)(b) as a currency in which a fee may be paid in that place.
- 5 The purpose of the instrument is to specify Australia and a number of foreign countries for paragraph 5.36(1)(a) and the associated currency, or currencies, in which a fee may be paid in that country for paragraph 5.36(1)(b). The instrument also repeals LIN 21/004.
- 6 The instrument is required to be re-made as part of the biannual update of the places where payment of a fee may be made and the corresponding currencies that must be used for payment of a fee in that place. The instrument specifies the countries in which payment of a fee may be made and the currency in which a fee may be paid in that place. It enables the Department to advise on and accept only those currencies that are readily and legally accessible to the public and bankable by each overseas office. There is no change to the foreign countries or currencies that were specified for paragraph 5.36(1)(a) by LIN 21/004.
- 7 It is noted that the instrument has an additional purpose for the *Australian Citizenship Act 2007* (the Citizenship Act). An application made under that Act must be accompanied by the fees prescribed in the *Australian Citizenship Regulation 2016* (the Citizenship Regulation) (see paragraph 46(1)(d) of the Citizenship Act).
- 8 As of 1 January 2022, subsection 16(4) of the Citizenship Regulation will provide that, if a fee for an application for citizenship is to be paid in a foreign currency that is prescribed in the instrument, the

specified places and the specified currencies in which that payment can be made will also apply in relation to the citizenship application (see also the *Home Affairs Legislation Amendment (2021 Measures No. 2) Regulations 2021*). The 1 January 2022 commencement date aligns with the commencement of the instrument.

Consultation

- 9 In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not necessary. The instrument is of a minor nature and does not substantially alter existing arrangements.
- 10 The Office of Best Practice Regulation (OBPR) has advised that the instrument dealt with matters of a minor machinery nature and no regulatory impact statement was required. The OBPR reference number is 25184.

Details of the instrument

- 11 Paragraph (a) states each place mentioned in an item of the table in Schedule 1 to the instrument is specified for paragraph 5.36(1)(a) of the Act.
- 12 Paragraph (b) states that the currency mentioned in the item for each place of the table in Schedule 1 to the instrument is specified for paragraph 5.36(1)(b) of the Act.
- 13 Paragraph (c) repeals LIN 21/004.
- 14 Schedule 1 specifies, in a table, the places and the corresponding currencies in which fees must be paid for each place.

Parliamentary scrutiny etc.

- 15 The instrument is exempt from disallowance under section 42 of the *Legislation Act*. This is because under paragraph (b) of 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.
- 16 The instrument was made by a delegate of the Minister, acting under paragraph 5.36(1)(a) and (b) of the *Regulations*.