

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

Migration Regulations 1994

Migration (Arrangements for Electronic Travel Authority (Class UD) visa applications) Instrument (LIN 22/048) 2022

- 1 The instrument, Departmental reference LIN 22/048, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument commences on 5 April 2022, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 3 The purpose of the instrument is to specify the approved form and manner (the arrangements) for making an application for an Electronic Travel Authority (Class UD) visa (ETA visa). The instrument is being made consequential to amendments to item 1208A of Schedule 1 to the Regulations made by the *Migration Amendment (2022 Measures No. 2) Regulations 2022* (Amendment Regulations).
- 4 Item 1208A of Schedule 1 to the Regulations prescribes the requirements for an applicant to make a valid ETA visa application. Some of these requirements must be specified in a legislative instrument for the purposes of the respective provisions under subregulation 2.07(5), including:
 - the approved form for making an application for an ETA visa (see subitem 1208A(1) of Schedule 1); and
 - the place and manner (if any) for making an application for an ETA visa (see paragraph 1208A(3)(a) of Schedule 1).
- 5 The instrument commences on 5 April 2022 to align with the commencement of the Amendment Regulations.
- 6 With the reopening of international borders, ETA visa eligible travellers are seeking to travel to Australia in greater numbers and require a fast and convenient process for lodging an ETA visa application. By making the instrument, the majority of applications for the ETA visa are expected to be made using a recently introduced mobile app, AustralianETA. The AustralianETA app enables applicants for an ETA visa to lodge their application from their own portable device at a time of their choosing and convenience.
- 7 The app is a flexible platform which can rapidly implement responses to emerging situations and is able to be updated to reflect user preferences and technology. The dynamic form within the app also improves the accuracy of visa application data, leading to more efficient visa processing and deterrence of non-genuine travellers. The AustralianETA benefits ETA visa applicants by enabling a convenient and efficient way to make an ETA visa application, while also supporting the Government's digital transformation strategy and the recovery of Australia's tourism industry.

Consultation

- 8 No consultation was engaged in, as the instrument supports expanded access to AustralianETA and no substantive changes are being made. A range of Commonwealth agencies have been informed of the expanded access to AustralianETA, including the Departments of Prime Minister and Cabinet, the Department of Foreign Affairs and Trade, the Department of Finance and the Australian Trade and Investment Commission (Austrade). Stakeholders in the tourism industry were also informed of the proposed changes through membership of the Tourism Visa Advisory Group as well as the National Air Passenger Facilitation Group.
- 9 The Office of Best Practice Regulation (OBPR) was consulted and considered that the instrument dealt with matters of a machinery nature and no regulatory impact statement was required. The OBPR reference number is OBPR22-01608.

Details of the instrument

- 10 Section 1 provides that the name of the instrument is the *Migration (Arrangements for Electronic Travel Authority (Class UD) visa applications) Instrument (LIN 22/048) 2022*.
- 11 Section 2 provides for the commencement of the instrument on 5 April 2022.
- 12 Section 3 sets out definitions of terms used in the instrument. Under this section:
 - *AustralianETA* means a mobile app that is made available or has been made available (including before the commencement of this instrument), by or on behalf of the Commonwealth. This definition refers to the mobile app known as AustralianETA that, at the time of the instrument commencing, is available for free download through the Apple App Store and Google Play Store (for iOS and Android devices respectively). The definition ensures that any changes to the AustralianETA app such as new versions with technical updates would still be captured where the app continued to be available for the purpose of applying for an ETA visa, and is still made available, by or on behalf of the Commonwealth.
 - *Electronic Travel Authority* means a Subclass 601 (Electronic Travel Authority) visa within the meaning given by the Regulations.
- 13 Section 4 specifies that the approved form for making an application for an ETA visa is the AustralianETA application form available in the AustralianETA mobile app and the manner of lodgement is via this mobile app. This section enables a person who holds an ETA-eligible passport to apply for an ETA visa electronically using the AustralianETA app. People who may be unable or reluctant to download the AustralianETA app can seek the assistance of a travel agent, friend or family member to make their application. Travel agents wanting to use the AustralianETA app on behalf of an applicant for an ETA visa will need to register their International Air Transport Association (IATA) details in the AustralianETA app.
- 14 A note to section 4 clarifies that an application for an ETA visa may also be made in accordance with subregulation 2.07AB(1) or (2) of the Regulations. An example of when these arrangements might be used is in immigration clearance where an applicant may apply in person by presenting to an officer an ETA-eligible passport held by the applicant.

Parliamentary scrutiny etc.

- 15 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because it is an instrument made under Part 2 of the Regulations, which is exempt from disallowance under paragraph (b) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 16 The instrument is appropriate to be exempt from disallowance as it concerns matters of an administrative nature. Updating legislative instruments that specify administrative matters allows for consistent internal management of the migration policy framework.