

## EXPLANATORY STATEMENT

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

*Migration Regulations 1994*

### ***Migration (Payment of visa application charges and fees in foreign currencies) Instrument (LIN 22/003) 2022 (No. 2)***

- 1 The instrument, Departmental reference LIN 22/003, is made under paragraph 5.36(1A)(a) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument repeals *Migration (Payment of visa application charges and fees in foreign currencies) Instrument (LIN 22/001) 2022* (LIN 22/001) (F2022L01829) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the 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 1 July 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. Under subregulation 5.36(1A) of the Regulations, the amount of certain fees payable in a foreign currency is worked out on the basis of:
  - if the currency for the payment is specified in a legislative instrument under paragraph 5.36(1A)(a)—the exchange rate specified in the instrument; or
  - for any other currency—the method outlined in subregulation 5.36(2), which provides a formula using an exchange rate obtained on a commercial basis (paragraph 5.36(1A)(b)).
- 5 The purpose of the instrument is to specify the exchange rates and foreign currencies used to make payments of certain fees, for paragraph 5.36(1A)(a) of the Regulations, from 1 July 2022. The instrument also repeals LIN 22/001.
- 6 The Department undertakes a biannual update of the exchange rates for the specified foreign currencies to the Australian dollar. The purpose of the instrument is to update the list of and reflect changes in foreign currency exchange rates since the commencement of LIN 22/001.
- 7 The instrument ensures that Department officers at overseas posts can advise on and collect the correct amount for visa application charge payments from clients.

#### ***Consultation***

- 8 Consultation and negotiation with the Department of Foreign Affairs and Trade occurred, in relation to continued inclusion of and removal of the specified currencies and exchange rates. The policy implemented via the instrument has been agreed to by the Department of Home Affairs and the Department of Foreign Affairs and Trade.

- 9 The Office of Best Practice Regulation (OBPR) was also consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OBPR reference number is 25184.

***Details of the instrument***

- 10 Paragraph (a) states each currency is specified in the table in Schedule 1 of the instrument.
- 11 Paragraph (b) states the exchange rate is specified for the specified currency mentioned in the table in Schedule 1 of the instrument.
- 12 Paragraph (c) repeals LIN 22/001.
- 13 Schedule 1 specifies, in a table, the currencies and their corresponding exchange rates for paragraph 5.36(1A)(a) of the Regulations.

***Parliamentary scrutiny etc.***

- 14 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.
- 15 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 in accordance with Departmental resources and arrangements.
- 16 The instrument was made by a delegate of the Minister, in accordance with paragraph 5.35(1A)(a) of the Regulations.