

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (Arrangements for Resident Return visa applications) Amendment Instrument (LIN 23/014) 2023

- 1 The instrument, Departmental reference LIN 23/014, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the **Regulations**).
- 2 The instrument amends *Migration (Arrangements for Resident Return visa applications) Instrument (LIN 22/019) 2022* (LIN 22/019) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. 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 the day after registration, and is a legislative instrument for the *Legislation Act 2003*.

Purpose

- 4 Subregulation 2.07(5) of the Regulations provide that if an item of Schedule 1 to the Regulations prescribes criteria or requirements by reference to a legislative instrument made under that subregulation, the Minister may, by legislative instrument, specify the following:
 - (a) an approved form for making an application for a visa of a specified class;
 - (b) the way in which an application for a visa of a specified class must be made
 - (c) the place at which an application for a visa of a specified class must be made;
 - (d) any other matter.
- 5 The purpose of this instrument is to update LIN 22/019 to reflect changes to the approved form, place and manner for making an application for a Special Eligibility (Class CB) visa application. Specifically, the instrument amends the address to which an application for a Special Eligibility (Class CB) visa must be sent.
- 6 Section 4 of the existing LIN 22/019 provides that for subitem 1118A(1) and paragraph 1118A(3)(a) of Schedule 1 to the Regulations, an application for a Special Eligibility (Class CB) visa must be made using form 47SV and be posted with sufficient prepaid postage to:
 - Department of Home Affairs
Locked Bag 7
Northbridge WA 6865
Australia.

7 There are approximately 10 Subclass 151 (Former Resident) visa applications lodged each year that fall within the Class CB visa category mentioned in paragraph 6 above. This instrument will amend section 4 of LIN 22/019 to change the postal address to:

- Subclass 151 Visa Application
Department of Home Affairs
PO Box 9984
Sydney NSW 2001
Australia.

8 The instrument will maintain all other arrangements previously in place under LIN 22/019.

Consultation

9 The Office of Impact Analysis (OIA) (previously known as The Office of Best Practice Regulation (OBPR)) was consulted and considered that the instrument is unlikely to have a more than minor regulatory impact. As such, impact analysis (IA) (previously known as Regulation Impact Statement) is not required (OBPR reference number: OBPR22-03452).

10 Further external consultation in the development of the instrument was not necessary as the change was of a minor or machinery nature and does not substantially alter the existing arrangements prescribed by the amended instruments.

Details of the instrument

11 Schedule 1 amends section 4 of LIN 22/019 to set out the updated postal address for making an application for a Class CB visa.

Parliamentary scrutiny etc.

12 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Part 2 and Schedule 1 to the Regulations are exempt in accordance with subitem 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

13 The instrument was made by a delegate of the Minister, in accordance with subregulation 2.07(5), subitem 1118A(1) and paragraph 1118A(3)(a) of Schedule 1 to the Regulations.