

## **EXPLANATORY STATEMENT**

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

*Migration Regulations 1994*

### ***Migration (Chemicals of Security Concern) Specification (LIN 23/053) 2023***

1. The instrument, Departmental reference LIN 23/053, is made by the Minister for Immigration, Citizenship and Multicultural Affairs under subclauses 8551(2) and 8560(2) of Schedule 8 to the *Migration Regulations 1994* (the Migration Regulations).
2. The instrument repeals *Specification of Definition of Chemicals of Security Concern - IMMI 13/083 (IMMI 13/083)*. Subsection 33(3) of the *Acts Interpretation Act 1901* 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. *IMMI 13/083* is scheduled to sunset on 1 October 2023. The Department of Home Affairs (Department) reviewed and assessed the necessity and performance of *IMMI 13/083* and found that this instrument was achieving its objective efficiently and effectively. The Department determined that *IMMI 13/083* should be remade to ensure that the same list of chemicals of security concern
4. The instrument, LIN 23/053, is a remake of *IMMI 13/083* and commences the day after registration. LIN 23/053 is a legislative instrument for the *Legislative Act 2003* (the Legislation Act).

#### ***Purpose***

5. The purpose of the instrument is to specify chemicals of security concern under subclauses 8551(2) and 8560(2) of Schedule 8 to the Migration Regulations, for the purposes of visa conditions 8551 and 8560.
6. These visa conditions require that visa holders who hold a Subclass 050 Bridging (General) visa or a Subclass 070 Bridging (Removal Pending) visa must obtain the Minister's approval before:
  - taking up employment in an occupation that involves the use of, or access to, chemicals of security concern; or
  - acquiring chemicals of security concern.
7. Subclauses 8551(2) and 8560(2) of Schedule 8 to the Migration Regulation provide that 'chemicals of security concern' means chemicals specified by the Minister in an instrument in writing for this definition. The previous instrument specifying chemicals of security concern for the purposes of visa conditions 8551 and 8560 was *IMMI 13/083*, which commenced on 13 July 2013 and is scheduled to sunset on 1 October 2023.

8. The instrument operates to repeal IMMI 13/083 and give effect to allow the Minister to prevent visa holders working in occupations where there is a potential risk to security and to facilitate possible cancellation of the bridging visa if the visa holder takes up employment involving the use of or access to such chemicals, or acquires such chemicals without the Minister's approval.
9. The instrument does not make changes to the list of chemicals of security concern specified in IMMI 13/083.

### ***Consultation***

10. Consultation was undertaken with the Attorney-General's Department and the Australian Safeguards and Non-Proliferation Office within the Department of Foreign Affairs and Trade. No changes were required to the list of chemicals of security concern previously identified by the (then) Council of Australian Governments for use in this instrument.
11. The Office of Impact Analysis (OIA) was consulted and considered that the instrument was unlikely to have a more than minor impact, and no regulatory impact statement was required. The OIA reference number is OIA23-05040.

### ***Details of the instrument***

12. Section 1 sets out the name of the instrument.
13. Section 2 provides for the commencement of the instrument on the day after registration.
14. Section 3 provides that the instrument is made under subclauses 8551(2) and 8560(2) of Schedule 8 to the Migration Regulations.
15. Section 4 sets out the definitions of terms used in the instrument.
16. Section 5 provides that *Specification of Definition of Chemicals of Security Concern - IMMI 13/083* (F2013L01185) is repealed.
17. Schedule 1 to the instrument specifies the chemicals of security concern for the purposes of subclauses 8551(2) and 8560(2) of Schedule 8 to the Migration Regulations.

### ***Parliamentary scrutiny etc.***

18. The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because a legislative instrument made under Schedule 8 to the Migration Regulations is prescribed under section 10, item 20(b), of the *Legislation (Exemptions and Other Matters) Regulation 2015* as an instrument not subject to disallowance.
19. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
20. The instrument is made by the Minister for Immigration, Citizenship and Multicultural Affairs, in accordance with subclauses 8551(2) and 8560(2) of Schedule 8 to the Migration Regulations.