

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (LIN 19/198: Evidence of financial capacity—Subclass 500 Visa and Subclass 590 Visa) Amendment (LIN 23/070) Specification 2023

1. The instrument, departmental reference LIN 23/070, is made under the *Migration Regulations 1994* (the Migration Regulations) for the purposes of the following provisions in Schedule 2 to the Migration Regulations:
 - (a) subclause 500.214(4);
 - (b) subclause 500.313(4); and
 - (c) subclause 590.216(4).
2. The instrument amends *Migration (LIN 19/198: Evidence of financial capacity—Subclass 500 Visa and Subclass 590 Visa) Instrument 2019* (LIN 19/198) (F2019L01366). Subsection 33(3) of the *Acts Interpretation Act 1901* relevantly 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 October 2023 and is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Purpose

4. LIN 19/198 specifies, for subclauses 500.214(4), 500.313(4) and 590.216(4) of Schedule 2 to the Migration Regulations, the requirements for evidence of financial capacity that must be given by an applicant for a Subclass 500 (Student) visa (Subclass 500 visa) or Subclass 590 (Student Guardian) visa (Subclass 590 visa), if required by the Minister to do so.
5. These requirements include specification, in Australian dollars (AUD), of the amount of funds required to be evidenced by an applicant seeking to satisfy the primary criteria for the grant of a Subclass 500 visa, secondary criteria for the grant of a Subclass 500 visa, or primary criteria for the grant of a Subclass 590 visa. These figures were last updated in 2019, and prior to this, annually. However, due to the COVID-19 Pandemic and its impact, these requirements have not been updated in recent years.
6. The purpose of LIN 23/070 is to amend LIN 19/198 to revise and increase the amount of funds required to be evidenced by a Subclass 500 visa applicant or Subclass 590 visa applicant, to reflect the current cost of living pressures that Subclass 500 and Subclass 590 visa holders will be subject to once they arrive in Australia. This will help to reduce the number of international

students experiencing financial hardship while in Australia, and ensure that they have adequate financial support for the duration of their studies.

7. The following annual living costs and expenses from LIN 19/198 are updated by this instrument, in line with Consumer Price Index (CPI) increases from June 2019 to June 2023. Adjustments in the CPI are provided by the Australian Bureau of Statistics.
 - (a) The amount of living costs and expenses required for an applicant seeking to meet the primary criteria for a Subclass 500 visa or Subclass 590 visa under clauses 500.214 or 590.216, respectively:
 - an increase from AUD21,041 to AUD24,505;
 - (b) The living costs for a spouse or de facto partner of an applicant under clauses 500.214 or 590.216:
 - an increase from AUD7,362 to AUD8,574;
 - (c) The living costs for each dependent child:
 - an increase from AUD3,152 to AUD3,670;
 - (d) The annual school costs for each school-aged dependent child:
 - an increase from AUD8,296 to AUD9,661;
 - (e) The personal annual income for a primary applicant if there is no secondary applicant:
 - an increase from AUD62,222 to AUD72,465;
 - (f) The personal annual income for a primary applicant where there is a secondary applicant:
 - an increase from AUD72,592 to AUD 84,543
8. This instrument also corrects some minor drafting errors in LIN 19/198, including amendments to the headings of section 6 and section 7.

Consultation

9. The Department of Home Affairs (the Department) has undertaken consultation with the Australian Bureau of Statistics, Austrade, the Department of Education and the Education Visa Consultative Committee.

10. The Office of Impact Analysis (OIA) was also consulted and considered that the instrument dealt with matters of a minor or machinery nature and no regulatory impact statement was required. The OIA reference number is OIA23-05668.

Details of the instrument

11. Section 1 sets out the name of the instrument.
12. Section 2 sets out that the instrument commences on 1 October 2023.
13. Section 3 sets out the authority under which the instrument is made.
14. Section 4 provides that Schedule 1 to the instrument amends LIN 19/198.
15. Item 1 of Schedule 1 to the instrument omits the use of ‘Subclause’ in the heading of section 6 of the instrument and substitutes it with ‘Subclass’. This corrects a minor drafting error to reference the Subclass 500 visa to which section 6 applies.
16. Item 2 of Schedule 1 to the instrument repeals subsection 6(2) of LIN 19/198 and substitutes new subsection 6(2). New subsection 6(2) includes updated figures in accordance with the CPI increased from June 2019 and June 2023 for the purposes of sub-subparagraphs 6(2)(b)(i)(A), 6(2)(c)(ii)(A), 6(2)(c)(ii)(B) and 6(2)(c)(iv)(A). It also corrects minor drafting errors in LIN 19/198, including ensuring that paragraph 6(2)(c) is correctly numbered.
17. Items 3, 4, 6 to 12 of Schedule 1 to the instrument omit the outdated figures and substitutes the updated figures in accordance with the CPI increases from June 2019 to June 2023.
18. Item 5 of Schedule 1 to the instrument omits the use of ‘Subclause’ in the heading of section 7 of the Instrument and substitutes it with ‘Subclass’. This corrects a minor drafting error to reference the Subclass 500 visa to which section 7 applies.
19. Item 13 of Schedule 1 to the instrument adds a new Part 3 to LIN 19/198. New Part 3 provides for the application, saving and transitional provisions to which the amendments to this instrument apply. It provides that the amendments in Schedule 1 apply in relation to a Student (Temporary) (Class TU) visa application made on or after the day this Instrument commences.

Parliamentary scrutiny etc.

20. The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because an instrument made under Part 2 and Schedule 2 of the Migration Regulations is prescribed as exempt under paragraph 20(b) in the table under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
21. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

22. The instrument was made by a delegate of the Minister, in accordance with *Migration (Minister) (Instrument-making powers) Delegation 2021 (No.2)*.