



LIN 23/078

**Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023**

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I, Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, make this instrument under the *Migration Regulations 1994* (the **Regulations**).

Dated                      14 November 2023

Andrew Giles

Minister for Immigration, Citizenship and Multicultural Affairs

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## 1 Name

This instrument is the *Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as the <i>Migration Amendment (Expanding Access to Temporary Residence Transition Stream) Regulations 2023</i> commences.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the following provisions of the *Migration Regulations 1994*:

- (a) subparagraph 5.19(5)(a)(iii);
- (b) subregulation 5.19(6);
- (c) subregulation 5.19(8);
- (d) subregulation 5.19(13);
- (e) paragraph 186.221(1)(b) of Schedule 2;
- (f) paragraph 187.221(b) of Schedule 2;
- (g) paragraph 187.222(b) of Schedule 2; and
- (h) subclause 494.223(2) of Schedule 2.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1 Amendments

(s.4)

### *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019*

**[1] Section 5, definition of *concession period***

Repeal the definition.

**[2] Section 5, definition of *coronavirus employment change***

Repeal the definition.

**[3] Section 5, definition of *legacy 457 worker***

Repeal the definition, substitute:

***legacy 457 worker***, for a Subclass 186 (Employer Nomination Scheme) visa application, means a person who:

- (a) held a Subclass 457 (Temporary Work (Skilled)) visa on or after 18 April 2017;
- (b) was in Australia for at least 12 months between 1 February 2020 and 14 December 2021; and
- (c) applied for the Subclass 186 (Employer Nomination Scheme) visa on or before 30 June 2024.

**[4] Section 5, definition of *pro rata threshold***

Repeal the definition.

**[5] Section 5, definition of *regional medical practitioner applicant***

Repeal the definition, substitute:

**regional medical practitioner applicant**, in relation to an application for a visa, means a person in relation to whom all of the following paragraphs apply:

- (a) the nominated position to which the visa application relates is located in a designated regional area;
- (b) during the 3 years ending immediately before the day the visa application was made the person spent at least 2 years (whether made up of a continuous period or 2 or more non-consecutive periods) employed, as a medical practitioner, at a place or places that, at the time, were located in a designated regional area;
- (c) during the 3 years immediately before the day the visa application was made, the person held one or more of the following for a total period of at least 2 years:
  - (i) a Subclass 457 (Temporary Work (Skilled)) visa; or
  - (ii) a Subclass 482 (Temporary Skill Shortage) visa.

**[6] Section 5, definition of *Subclass 457/482 coronavirus concession worker***

Repeal the definition.

**[7] Section 5, paragraph (a) of the definition of *Subclass 457/482 worker***

Omit “at all times”

After “employed” insert:

for a period of at least 2 years

**[8] Section 5, paragraph (b) of the definition of *Subclass 457/482 worker***

Omit “3”, substitute “2”

**[9] Section 5, paragraph (c) of the definition of *Subclass 457/482 worker***

Repeal the paragraph, substitute:

- (c) during the 3 years immediately before the day the visa application was made, the person held one or more of the following for a total period of at least 2 years:
- (i) a Subclass 457 (Temporary Work (Skilled)) visa; or
  - (ii) a Subclass 482 (Temporary Skill Shortage) visa.

**[10] Section 5A, Coronavirus employment change**

Repeal the section.

**[11] Paragraph 6(1)(da)**

Repeal the paragraph.

**[12] Paragraph 7(1)(da)**

Repeal the paragraph.

**[13] At the end of Part 3**

Insert:

**12 Amendments made by LIN 23/078**

- (1) The amendments of this instrument made by items 1, 2, 3, 4, 6, 10, 11 and 12 of Schedule 1 to the Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023 apply in relation to applications made on or after the commencement of that Schedule.
- (2) The amendments of this instrument made by items 5, 7, 8 and 9 of Schedule 1 to the Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023 apply in relation to the following applications:
  - (a) made, but not yet finally determined, upon commencement of that Schedule;
  - (b) made on or after the commencement of that Schedule.

*Migration (LIN 19/049: Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2019*

**[14] Paragraph 3(a)**

Repeal the paragraph.

**[15] Subsection 6(1)**

Repeal the subsection and subsection heading.

**[16] Subsection 8(1)**

Omit “paragraph 5.19(8)(c) and”.

**[17] After section 13**

Insert:

**14 Amendments made by LIN 23/078**

The amendments of this instrument made by Schedule 1 to the *Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023* apply in relation to the following:

- (a) an application for approval of a nomination that is made on or after 18 March 2018, but is not yet finally determined, upon commencement of that Schedule;
- (b) an application for approval of a nomination that is made on or after the commencement of that Schedule.

**Schedule 2 Repeals**

(s.4)

**Part 1—Repeals**

*Migration (Specified persons and periods of time for regulation 5.19) Instrument (LIN 22/038) 2022*

**[1] The whole of the instrument**

Repeal the instrument.

*Migration (LIN 19/047: Specification of Occupations—Subclass 187 Visa) Instrument 2019*

**[2] The whole of the instrument**

Repeal the instrument.

**Part 2—Application of repeals**

**[3] Application of repeals**

The repeals made by Schedule 2 to the *Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023* apply in relation to an application for approval of a nomination that is made on or after the commencement of that Schedule.