

LIN 23/078

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

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

Contents

1 Name 3

2 Commencement 3

3 Authority 3

4 Schedules 3

Schedule 1 Amendments 4

Schedule 2 Repeals 7

Part 1—Repeals 7

Part 2—Application of repeals 7

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 *Migration Amendment (Expanding Access to Temporary Residence Transition Stream) Regulations 2023* 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Note:      This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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.