

## EXPLANATORY STATEMENT

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

### *Migration Regulations 1994*

#### ***Migration (Ending the COVID-19 Concession Period) (LIN23/063) Specification 2023***

- 1 The instrument, departmental reference LIN23/063, is made under subregulation 1.15N(2) of the *Migration Regulations 1994* (the Regulations), for the purposes of paragraph 1.15N(1)(b) of the Regulations.
- 2 The instrument commences on the day after it is registered on the Federal Register of Legislation. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 3 Regulation 1.15N in Part 1 of the Regulations sets out the meaning of ‘concession period’ for the purposes of the Regulations. Regulation 1.15N was inserted in the Regulations on 19 September 2020 as part of Australia’s response to the COVID-19 Pandemic.
- 4 Regulation 1.15N makes provision for both an ‘initial concession period’, and also for later concession periods for the purposes of specified provisions of the Regulations. Subregulations 1.15N(1) and (2) provide for the initial concession period, which is a period that commenced on 1 February 2020 and which ends on a day specified by the Minister by legislative instrument under subregulation 1.15N(2).
- 5 The purpose of this instrument is to specify 25 November 2023, for the purposes of paragraph 1.15N(1)(b), as the day on which the concession period ends. In accordance with table item 4 in subsection 36(1) of the *Acts Interpretation Act 1901*, the concession period includes 25 November 2023, and ends at the end of that day.
- 6 On commencement of this instrument, any reference to a ‘concession period’ in the Migration Regulations is therefore a reference to a period commencing on 1 February 2020 and ending on 25 November 2023.
- 7 Regulation 1.15N was inserted by the *Migration Amendment (COVID-19 Concessions) Regulations 2020* (the COVID-19 Concessions Regulations) on 19 September 2020. The COVID-19 Concessions Regulations amended the Migration Regulations to assist certain temporary and provisional visa holders, including individuals on a pathway to permanent residence, who were disadvantaged by the consequences of the COVID-19 Pandemic, such as border closures, restrictions imposed on businesses and the general economic downturn.

- 8 In particular, travel restrictions associated with the COVID-19 Pandemic made it difficult for visa applicants to satisfy some of the criteria and requirements for the grant of certain visas, including requirements in relation to where the applicant must be located at the time of visa grant.
- 9 All COVID-19 Pandemic-related international travel restrictions have now been lifted, and travellers to Australia no longer need to provide information in relation to their vaccination status or seek travel exemptions. It is therefore appropriate to end the concession period.
- 10 The concessions provided in the Migration Regulations are not being repealed at this time, as there remains a legacy cohort for whom the concessions still apply, for example, applicants who applied for a visa during the concession period but who have not yet had a visa decision. The concession provisions remain in effect for this legacy cohort.
- 11 Subregulation 1.15N(3) allows the Minister to determine, by legislative instrument, a later period as a concession period for the purposes of a specified provision of the Regulations in which the expression ‘concession period’ is used; however, no later concession periods have been determined under subregulation 1.15N(3).

### ***Consultation***

- 12 Consultation was undertaken with the Department of Foreign Affairs and Trade, the Department of Agriculture, Fisheries and Forestry, the Department of Employment and Workplace Relations and Austrade.
- 13 The Office of Impact Analysis (OIA) was also consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OIA reference number is OIA23-05291.

### ***Parliamentary scrutiny***

- 14 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Part 1 of the Migration Regulations are prescribed as exempt from disallowance by effect of table item 20 in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 15 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 16 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs under subregulation 1.15N(2) of the Migration Regulations.