

## EXPLANATORY STATEMENT

Issued by the Minister for Immigration, Citizenship and Multicultural Affairs

*Migration Regulations 1994*

### ***Migration (Code of Behaviour for Public Interest Criterion 4022) Instrument (LIN 24/031) 2024***

- 1 The instrument, departmental reference LIN 24/031, is made under clause 4.1 of Schedule 4 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 This instrument repeals *Code of Behaviour for Public Interest Criterion 4022 – IMMI 13/155* (F2013L02105) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection 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 the day after the instrument is registered on the Federal Register of Legislation, and will repeal itself on 31 March 2025. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 To satisfy public interest criterion (PIC) 4022, either the applicant must sign a code of behaviour that has been approved by the Minister in accordance with Part 4 of Schedule 4 to the Migration Regulations and is in effect for the subclass of visa, or the Minister does not require the visa applicant to sign a code of behaviour that is in effect for the subclass of visa.
- 5 Clause 4.1 of Schedule 4 to the Migration Regulations provides that for PIC 4022, the Minister must, by instrument in writing, approve one or more written codes of behaviour for the subclasses of visas specified in the instrument.
- 6 The purpose of LIN 24/031 is to specify, for the Subclass 050 (Bridging (General)) visa, a code of behaviour for the purposes of PIC 4022.
- 7 This instrument substantially replicates the existing Code of Behaviour as detailed in IMMI 13/155 for another 12 months, pending further consideration. IMMI 13/155 is due to sunset on 1 April 2024 in accordance with subsection 50(1) of the Legislation Act. That provision provides for the repeal of a legislative instrument on the first 1 April or 1 October falling on or after the tenth anniversary of registration of the instrument, unless the instrument was registered (on the Federal Register of Legislation) on 1 January 2005. IMMI 13/155 was registered on the Federal Register of Legislation on 13 December 2013.
- 8 Certain applicants will be required to sign and date the code of behaviour, as detailed in Schedule 1 to this instrument, for the purposes of PIC 4022.

### ***Consultation***

- 9 No external consultation was done for LIN 24/031 as it substantially replicates the existing Code of Behaviour as detailed in IMMI 13/155 for a further 12 months (until 31 March 2025), pending further consideration and review.
- 10 The Office of Impact Analysis (OIA) was consulted and considered that a detailed impact analysis was not required to remake the Code of Behaviour (the Code). This assessment was informed by the OIA's understanding that repealing and replacing the current Code (which is due to sunset on 1 April 2024) with substantially the same Code for an additional 12-month period, will have no regulatory impacts. The OIA reference is OIA24-06827.

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

- 11 Section 1 sets out the name of the instrument.
- 12 Section 2 provides for the commencement of the instrument on the day after the instrument is registered on the Federal Register of Legislation.
- 13 Section 3 provides that the instrument is made under clause 4.1 of Schedule 4 to the Migration Regulations.
- 14 Section 4 provides that the Code of Behaviour specified in Schedule 1 of the instrument is approved for the Subclass 050 (Bridging (General)) visa, for the purposes of clause 4.1 of Schedule 4 to the Migration Regulations.
- 15 Section 5 provides that the instrument specified in Schedule 2 of the instrument is either amended or repealed as set out in that Schedule.
- 16 Section 6 provides that LIN 24/031 will self-repeal on 31 March 2025.
- 17 Schedule 1 to the instrument sets out the Code of Behaviour for the purposes of section 4 of this instrument.
- 18 Item 1 of Schedule 2 to the instrument repeals the *Code of Behaviour for Public Interest Criterion 4022 – IMMI 13/155* (IMMI 13/155).

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

- 19 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because the instrument is made under Schedule 4 to the Migration Regulations, which is prescribed in sub-item 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 20 The instrument was made by the Minister of Immigration, Citizenship and Multicultural Affairs, in accordance with clause 4.1 of Schedule 4 to the Migration Regulations.