

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 24/042) Specification 2024

1. The instrument, departmental reference LIN 24/042, is made under subclauses 500.214(4), 500.313(4) and 590.216(4) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
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 the day after the instrument is registered. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Purpose

4. LIN 19/198 specifies, for the purposes of subclauses 500.214(3), 500.313(3) and 590.216(3) 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 to do so.
5. Subclauses 500.214(3), 500.313(3) and 590.216(3) provide that, if required to do so by the Minister, in writing or by use of a computer program available online, an applicant seeking to satisfy the primary criteria for a Subclass 500 visa, the secondary criteria for a Subclass 500 visa or the primary criteria for a Subclass 590 visa, respectively, must give the Minister evidence of financial capacity that satisfies the requirements specified in an instrument made under subclause 500.214(4), 500.313(4) or 590.216(4), as appropriate.
6. The requirements specified in LIN 19/198 include, in Australian dollars (AUD), 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 on 1 October 2023.
7. The purpose of LIN 24/042 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 these visa holders will be subject to once they arrive in Australia.

8. Previously, these figures were adjusted based on the Consumer Price Index (CPI). This has been the accepted methodology since the 2011 Strategic Review of the Student Visa Program (Knight Review).
9. Previous stakeholder feedback through the Education Visa Consultative Committee (EVCC) indicated the CPI methodology for calculating financial capacity requirements was no longer fit for purpose. Concerns were also raised that the previous amount for school-aged dependants was not an accurate representation of current average schooling costs in Australia.
10. The amended figures are based on a new methodology, calculated as a proportion of the Australian National Minimum Wage. The National Minimum Wage is the minimum amount an employer must pay an employee. It is reviewed and set annually by the Australian Fair Work Commission each financial year.
11. The rationale for this new methodology is that a student visa holder should be able to support themselves to at least the standard of the lowest paid Australian worker. The new methodology more accurately accounts for the costs of modern living, especially in light of increasing cost of living pressures.
12. The adjusted figures result in an increase of approximately 21 percent from the previous figures. These adjustments and the corresponding amendments of LIN 19/198 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.
13. The increased financial capacity requirements only apply to new Subclass 500 and Subclass 590 visa applications made on and from the date the amending instrument commences.
14. The following annual living costs and expenses from LIN 19/198 are updated by this instrument.
 - (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 AUD24,505 to AUD29,710;
 - (b) The living costs for a spouse or de facto partner of an applicant under clause 500.214:
 - an increase from AUD8,574 to AUD10,394;
 - (c) The living costs for each dependent child:
 - an increase from AUD3,670 to AUD4,449;

- (d) The annual school costs for each school-aged dependent child:
 - an increase from AUD9,661 to AUD13,502;
- (e) The personal annual income for a primary applicant if there is no secondary applicant:
 - an increase from AUD72,465 to AUD87,856;
- (f) The personal annual income for a primary applicant where there is a secondary applicant:
 - an increase from AUD84,543 to AUD102,500.

Consultation

15. The Department consulted the Department of the Treasury and the Department of Education in relation to the methodology for calculating financial capacity requirements, which underpins the amendments. Both departments were supportive of the new methodology. This consultation was considered appropriate and reasonably practicable before making the instrument, for the purposes of section 17 of the Legislation Act.
16. The updated financial requirement figures have been communicated via the Department's website as well as social media platforms, and through engagement with the education sector. In addition, the Department has engaged with the Education Visa Consultative Committee (EVCC) as the main departmental consultation forum for the international education sector. Stakeholders indicated acceptance of the change, noting the cumulative effect these changes, in combination with the increases introduced on 1 October 2023, are expected to have on the sector. Despite these increases, stakeholders acknowledged the changes would contribute to the policy intention of reducing exploitation in the international student visa sector.
17. The Office of Impact Analysis (OIA) was 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 OIA24-07445.

Details of the instrument

18. Section 1 sets out the name of the instrument.
19. Section 2 sets out that the instrument commences on the day after the instrument is registered.
20. Section 3 sets out the authority under which the instrument is made.
21. Section 4 provides that Schedule 1 to the instrument amends LIN 19/198.
22. Items 1 to 6 of Schedule 1 to the instrument omit the outdated figures and substitute new figures, calculated as a proportion of the National Minimum Wage, as the amount of funds required to be

evidenced by a primary applicant for a Subclass 500 visa for the purposes of sub-subparagraphs 6(2)(b)(ii)(A), 6(2)(c)(ii)(A), 6(2)(c)(ii)(B), 6(2)(c)(iv)(A), subparagraphs 6(3)(b)(i) and 6(3)(b)(ii).

23. Items 7 and 8 of Schedule 1 to the instrument omit the outdated figures and substitute new figures, calculated as a proportion of the National Minimum Wage, as the amount of funds required to be evidenced by a secondary applicant for a Subclass 500 visa, for the purposes of paragraphs 7(3)(b) and 8(3)(b).
24. Items 9, 10, 12 and 13 of Schedule 1 to the instrument omit the outdated figures and substitute new figures, calculated as a proportion of the National Minimum Wage, as the amount of funds required to be evidenced by a primary applicant for a Subclass 590 visa, for the purposes of sub-subparagraphs 9(2)(b)(ii)(A), 9(2)(c)(ii)(A), 9(2)(d)(iv)(A) and paragraph 9(3)(b).
25. Item 11 of Schedule 1 to the instrument repeals subparagraph 9(2)(d)(ii), and substitutes a new subparagraph. This amendment corrects an error that was identified in subparagraph 9(2)(d)(ii) in LIN 19/198 as made on 4 October 2019, which included reference to the primary applicant's spouse or de facto partner in s 9(2)(d)(ii)(A) or dependent child in s 9(2)(d)(ii)(B). Clause 590.312 of Schedule 2 to the Migration Regulations specifies that a secondary applicant must not have turned 6 years of age – and as such, new subparagraph 9(2)(d)(ii) provides a single figure, calculated as a proportion of the National Minimum Wage, as the amount of funds required to be evidenced by a primary applicant for a Subclass 590 visa, for each secondary applicant. The note to subparagraph 9(2)(d)(ii) explains that secondary applicants for a Subclass 590 visa must not have turned 6 years of age.
26. Items 14 and 15 of Schedule 1 to the instrument inserts a new section number and heading to Part 3—Application, Saving and Transitional Provisions in LIN 19/198. New section 13 is added which 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.

27. 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*.
28. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
29. The instrument was made by a delegate of the Minister, in accordance with subclauses 500.214(3), 500.313(3) and 590.216(3) of Schedule 2 to the Migration Regulations.