EXPLANATORY STATEMENT

Issued by the Minister for Immigration and Multicultural Affairs

Migration Act 1958

Migration Amendment (2024 Measures No. 1) Regulations 2024

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

On 11 December 2023, the Government released its Migration Strategy, which outlined a policy roadmap for reforming Australia's migration system. One prominent feature of the Migration Strategy was the Government's commitment to implementing a new "Skills in Demand" visa that would address the nation's skills needs, and provide skilled migrant workers with increased worker mobility and clear pathways to permanent residence.

The *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to give effect to key commitments made by the Government in the Migration Strategy, released on 11 December 2023, that concern Australia's temporary skilled migration system. In particular, the Amendment Regulations:

- implement the Subclass 482 (Skills in Demand) visa, which replaces the Subclass 482 (Temporary Skill Shortage) visa as of 7 December 2024;
- align employer sponsorship obligations with labour market mobility reforms introduced on 1 July 2024 through the *Migration Amendment (Work Related Visa Conditions) Regulations 2024,* and also ensure that existing employer sponsorship obligations apply to approved work sponsors of Skills in Demand primary visa holders;
- ensure that applicants for, and holders of, the new Skills in Demand (SID) visa will have a pathway to permanent residence through the temporary residence transition (TRT) stream of the subclass 186 Employer Nomination Scheme (ENS), and in which all periods of sponsored employment can count towards permanent residence;
- reduce the minimum relevant work experience requirement for applicants for the Skills in Demand visa from two years (the current requirement for the Temporary Skill Shortage visa) to one year of full-time employment, or equivalent, within the five years that immediately preceded the date of the visa application.

The Amendment Regulations do not operate retrospectively. The Amendment Regulations provide for all nominations and visa applications for a Temporary Skill Shortage visa made

before commencement of the amendments of the Migration Regulations to be processed using the requirements that were in force at the time that the application was made.

If an employer has lodged a nomination for a Temporary Skill Shortage visa that was not accompanied by a corresponding application for the visa before the amendments commence, the applicant would be able to "link" this nomination to the new Skills in Demand visa until the original nomination period of 12 months ceases.

The development of the Skills in Demand visa and the other amendments in the Amendment Regulations was informed through consultation with businesses, unions, and other stakeholders undertaken throughout the Migration Review, and which informed the Migration Strategy. The Department also engaged in whole of government consultation in the course of developing the Migration Strategy, including with the Department of Employment and Workplace Relations and the Department of the Prime Minister and Cabinet.

The matters dealt with in the Regulations are appropriate for implementation in regulations rather than by parliamentary enactment. It has been the consistent practice of the Government of the day to provide for detailed visa settings in the Migration Regulations rather than in the Migration Act itself. The Migration Act expressly provides for these matters to be prescribed in regulations, as can be seen in the authorising provision. Providing for these details to be in delegated legislation rather than primary legislation gives the Government the ability to effectively manage the operation of Australia's visa program and respond quickly to emerging needs.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Amendment Regulations are compatible with human rights. A copy of the Statement is at Attachment A.

The Office of Impact Analysis (OIA) has been consulted in relation to the amendments, advising that no Impact Analysis is required. The OIA consultation reference number is OBPR23-04044.

The Amendment Regulations commence on 7 December 2024.

Further details of the Amendment Regulations are set out in Attachment B.

The Amendment Regulations amend the Migration Regulations, which are exempt from sunsetting under table item 38A of section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015.* The Migration Regulations are exempt from sunsetting on the basis that the repeal and remaking of the Migration Regulations:

- is unnecessary as the Migration Regulations are regularly amended numerous times each year to update policy settings for immigration programs;

- would require complex and difficult to administer transitional provisions to ensure, amongst other things, the position of the many people who hold Australian visas, and similarly, there would likely be a significant impact on undecided visa and sponsorship applications; and

- would demand complicated and costly systems, training and operational changes that would impose significant strain on Government resources and the Australian public for insignificant gain, while not advancing the aims of the *Legislation Act 2003* (Legislation Act).

The Amendment Regulations will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the Legislation Act. Specifically, section 48A in that Division operates to automatically repeal a legislative instrument that has the sole purpose of amending or repealing another instrument. As the Amendment Regulations will automatically repeal, they do not engage the sunsetting framework under Part 4 of the Legislation Act.

The Migration Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Amendment Regulations are a legislative instrument for the purposes of the Legislation Act.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (2024 Measures No. 1) Regulations 2024

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

On 11 December 2023, the Government released its *Migration Strategy* which outlined changes to Australia's temporary and permanent employer sponsored visa programs. One prominent feature of the *Migration Strategy* was the Government's commitment to implementing a new "Skills in Demand" visa that would address the nation's skills needs, and provide skilled migrant workers with increased worker mobility and further pathways to permanent residence.

The *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to:

- introduce a new temporary Skills in Demand (subclass 482) visa (SID visa) that replaces the existing Temporary Skill Shortage (subclass 482) visa (TSS visa);
- ensure that applicants and holders of the new SID visa will have a pathway to permanent residence through the temporary residence transition (TRT) stream of the Employer Nomination Scheme (subclass 186) visa (Subclass 186 visa) where all periods of sponsored employment count towards work experience requirements for permanent residence;
- reduce the minimum relevant work experience requirement for applicants for the SID visa from two years (the current requirement for the TSS visa) to one year of full-time employment, or equivalent, within the five years that immediately preceded the date of the visa application;
- ensure sponsorship obligations for sponsors of skilled workers align with the provisions introduced on 1 July 2024 to support worker mobility, and that these obligations apply to the new SID visa.

Features of the SID visa

The Amendment Regulations reforms and renames the subclass 482 visa as the SID visa. Continuing on from the TSS visa, under the SID visa program, employers remain able to access a skilled overseas worker if an appropriately skilled Australian worked is unavailable.

Overseas workers must still be nominated by a sponsoring business and obtain a SID visa before they can commence work in Australia. The key features of the SID visa in comparison to the TSS visa include enabling full mobility for visa holders by making it easier for applicants to find a new employer and counting time with any sponsoring employer towards the permanent residence requirement for the TRT stream of the permanent Subclass 186 visa, and a single occupation list based on contemporary labour market analysis. The SID visa has three streams:

- a Specialist Skills stream, for applicants in any Australian and New Zealand Standard Classification of Occupations (ANZSCO) occupation earning $135,000 or more (excluding occupations in ANZSCO Major Groups 3, 7 and 8);
    - This introduces a new stream not available under the TSS that recognises highly skilled migrants bring significant economic benefits to Australia and enables employers to access these skills quickly through streamlined processing arrangements;
    - The exclusion of trades workers, machinery operators and drivers, and labourers (ANZSCO Major Groups 3, 7 and 8) were outlined in the *Migration Strategy* following tripartite consultation with business and unions;
- a Core Skills stream, for applicants earning over $73,150 (in line with the current Temporary Skilled Migration Income Threshold for the TSS visa) in a Core Skills Occupation List (CSOL) occupation which is based on labour market analysis and stakeholder consultation undertaken by Jobs and Skills Australia (JSA); and
- a Labour Agreement stream, which carries over existing settings from the TSS visa while further development of the proposed Essential Skills stream takes place.

The Amendment Regulations also provides for the annual indexation of these income thresholds on 1 July each year, in line with Average Weekly Ordinary Time Earnings (AWOTE) to ensure migrant's wages keep pace with wages of Australian workers, and that the SID visa is not used by employers to undercut wages of Australian workers. A SID visa will generally be granted for up to four years duration, depending on the period nominated by the employer.

The CSOL replaces the multiple occupation lists used under the TSS visa and reflects current labour market conditions, including new occupations that were not previously available under the TSS visa. The CSOL includes 70 new occupations that were not previously available for the TSS visa, including new occupations in the health, childcare, education, construction and cyber sectors.

Other new features of the SID visa include:

- the English language requirement, as specified by the Minister in a legislative instrument, is the equivalent to the requirements of the existing medium-term stream for the TSS visa - an International English Language Testing System score (or equivalent) of level 5 overall, with a minimum of 5 in each component score. This

requirement recognises the importance of English language ability in the workplace and for community participation. It reflects the longer period of stay for all SID visa holders and their potential to progress to permanent residence via the Subclass 186 visa;

- the work experience requirement of the SID visa is being reduced from the current requirement for the TSS visa of two years, to one-year for all visa applicants. This one-year work experience must have been obtained through one year of full-time work, or an equivalent period of part-time or casual work in the period of five years prior to the application date;
    - This provides greater flexibility for various work types such as casual or part time work, and allows breaks in employment, helping to increase women's participation in the workforce;
    - Requiring the work experience to be recent and on a full-time basis or equivalent, ensures applicants are adequately skilled and can perform the role to Australian standards;
- financial capacity requirements will apply to nominations for the SID visa, and ensure employers do not inflate salaries for visa outcomes – such as claiming a nominated salary of $135,000 to gain access to the Specialist Skills stream, including where the nominated occupation is not on the CSOL.

CSOL occupations

Certain occupations that are available under the TSS are not included on the CSOL and will not be eligible for the Core Skills Stream of the SID visa. Some of these occupations may be eligible for the Specialist Skills stream, subject to meeting income requirements, or the Labour Agreement stream of the SID visa. These occupations may also be eligible for other visa pathways including permanent visas.

Existing TSS visa holders will have the ability to change to a new employer, if their current occupation is on the CSOL or the nomination meets the income qualification for a Specialist Skills stream visa.

If the relevant occupation is not on the CSOL or does not qualify for the Specialist Skills stream, the applicant will not have a pathway to change employer. These individuals will be able to utilise the strengthened mobility provisions to find work in a new occupation, apply for another visa or depart Australia. This ensures that the temporary skilled migration system is best targeted at occupations in current demand.

Features of the Subclass 186 visa

The Subclass 186 visa is a permanent visa that allows employers to nominate skilled overseas workers for permanent residence in Australia to fill genuine vacancies in their business. The Subclass 186 visa is available nationally, and consists of a TRT stream, a Direct Entry stream and a Labour Agreement stream.

The TRT stream of the Subclass 186 visa currently provides a permanent visa pathway to TSS visa and Temporary Work (Skilled) (subclass 457) visa (Subclass 457 visa) holders who have worked in Australia for a specified period with a sponsoring employer who wishes to sponsor them for permanent residence.

To support the introduction of the SID visa, changes have been made to the Subclass 186 visa to provide clear pathways to permanent residence in which all sponsored employment counts towards work experience requirements for permanent residence.

The Direct Entry stream will be updated to use the CSOL as the list of eligible occupations that apply, reflecting current labour market conditions and replacing the previous list based on labour market analysis from 2018.

The amendments made by the Amendment Regulations provide clearer access to permanent residence for all temporary skilled workers (Subclass 457, TSS and SID visa holders).

The Amendment Regulations amend the Migration Regulations to:

- expand access to the TRT stream of the Subclass 186 visa for SID visa holders in all streams, (that is Core Skills, Specialist Skills and Labour Agreement streams);

- allow all sponsored employment to count towards the Subclass 186 visa TRT stream work experience requirements. This includes moving the requirement from the nomination criteria to the visa criteria and providing greater flexibility for changes in occupation to be considered, including promotions, working in a related field, or where changes to the classification of the occupation are made through updates to the ANZSCO. Existing flexibility for specified occupations (medical practitioners and certain executives) will continue in recognition of the nature of employment arrangements in these occupations;

- enable salary requirements for the Subclass 186 visa TRT and Direct Entry streams to continue to be linked to SID visa salary requirements. This allows the Subclass 186 visa to use the core skills income threshold and its annual indexation set out in the SID visa nomination requirements.

The changes to the TRT stream nomination requirement will apply to the Subclass 186 visa only.

As the nomination requirements for the Subclass 186 visa are currently shared with the Subclass 187 (Regional Sponsored Migration Scheme) visa (Subclass 187 visa), amendments are also needed to ensure that the Subclass 187 nomination requirements are retained.

The amendments made by the Amendment Regulations also:

- allow for application forms and alternative lodgement arrangements for contingency manual lodgement to be specified in a legislative instrument for Subclass 186 nomination applications;

- remove the redundant requirement for Subclass 186 visa secondary applicants (family members) to be included in the employer's nomination for Subclass 186 visa applications. This requirement is not needed, as unlike the subclass 482 visa, employers of subclass 186 visa holders do not have any sponsor obligations relating to family members, such as the obligation to pay travel costs to enable sponsored persons to leave Australia. This reduces unnecessary administrative requirements for sponsors and provides efficiencies in visa processing;

- ensure existing provisions for discretionary refunds of the visa application charge continue to be available for eligible applicants where they did not meet the Subclass 186 visa TRT stream work experience eligibility period requirements.

The amendments will apply to new Subclass 186 nomination and visa applications lodged on or after the regulations commence, except for the repeal of the requirement for family members to be included in the employer's nomination, which will apply to new applications as well as applications that have not been finally determined at the time of commencement.

Features of Sponsorship Obligations

The Amendment Regulations change sponsorship obligations to align with the provisions implemented that promote the mobility of temporary skilled sponsored workers. Under the Amendment Regulations, an employer's obligation to ensure the primary sponsored person works or participates in the nominated occupation, program or activity will end when the primary sponsored person ceases employment for them, rather than when they obtain a new sponsor. This aligns with provisions implemented on 1 July 2024 to enable visa holders who cease work with their sponsoring employer to have up to 180 days at a time (increased from 60 days) and a maximum of 365 days in total across their entire visa grant period to find a new sponsor, apply for a different visa, or depart Australia. The Amendment Regulations ensure that sponsors are not in breach of their obligations where they no longer sponsor a migrant on a skilled visa, and the migrant makes use of mobility provisions and works in an occupation other than their nominated occupation while they find a new employer.

The changes made by the Amendment Regulations ensure sponsors are not unfairly required to monitor and restrict the employment of the migrant where the sponsorship arrangement no longer exists. By making these changes, sponsorship obligations and existing monitoring capabilities can continue to protect sponsored workers through the sponsorship compliance framework.

Human rights implications

This Disallowable Legislative Instrument engages the following rights:

- the right to work and the right to just and favourable conditions of work under Articles 6 and 7 of the ICESCR, including as read with Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR);

- the rights of equality and non-discrimination under Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 2(2) ICESCR;
- rights relating to families and children, in particular those in Articles 17(1) and 23(1) of the ICCPR and Article 10(1) of the *Convention on the Rights of the Child* (CRC).

Article 6(1) of ICESCR provides that:

> *The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*

Article 7 of the ICESCR provides:

> *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:*
>
> *(a) Remuneration which provides all workers, as a minimum, with:*
>
> > *(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
> >
> > *(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
>
> *(b) Safe and healthy working conditions;*
>
> *(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
>
> *(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

Article 26 of the ICCPR provides:

> *All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Article 2(2) of the ICESCR states:

> *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

In continuing to impose various visa requirements on overseas workers, the amendments in the Amendment Regulations engage the rights to equality and non-discrimination, including, for those persons who are already in Australia, as they relate to the right to work.

In its General Comment 18, the UN Human Rights Committee (UNHRC) stated that:

> *The Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the [ICCPR].*

Similarly, in its General Comment on Article 2 of the ICESCR, the (E/C.12/GC/20), UN Committee on Economic, Social and Cultural Rights has stated (at 13) that:

> *Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the [ICESCR] rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.*

Neither the ICCPR nor the ICESCR give a right for non-citizens to enter Australia for the purposes of seeking residence or employment. The UNHRC, in its General Comment 15 on the position of aliens under the ICCPR, stated that:

> *The [ICCPR] does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the [ICCPR] even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise.*
>
> *Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment. A State may also impose general conditions upon an alien who is in transit. However, once aliens are allowed to enter the territory of a State party they are entitled to the rights set out in the [ICCPR].*

As such, Australia is able to set requirements for the entry of non-citizens into Australia and conditions for their stay, and does so on the basis of reasonable and objective criteria. It is open to the Government to change visa settings for new applicants to meet its policy priorities for a well-managed migration program, consistently with its international obligations, that are intended to benefit the Australian community as a whole.

The amendments made by the Amendment Regulations have been implemented following reviews that included public consultation and stakeholder feedback. The amendments support the *Migration Strategy* intent to better identify migrants who drive Australia's long-term prosperity and drive growth in sectors of national importance by addressing deficits in the skilled migrant program, for the benefit of the Australian community.

Further, Article 4 of ICESCR provides that the State may subject the rights enunciated in the ICESCR:

> *...only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in democratic society.*

The authority of the Australian Government to grant visas of a particular duration and the authority to place conditions and limitations on non-citizens in respect of those visas, including their work rights, is lawful as a matter of domestic law and has as its objectives ensuring the continued access of Australian citizens and permanent residents to paid employment and the continued integrity of Australia's migration program. The measures in the Amendment Regulations are have the effect of ensuring that persons who are already in Australia permanently are given the opportunity to seek work before those seeking to enter Australia to work and live in Australia either on a temporary or permanent basis. Providing Australians citizens and permanent residents with the first priority for jobs ensures that Australians are provided the opportunity to improve their standard of living and promotes their right to work. Broadly speaking, access to such opportunities promotes social stability. As such, they are for the "purpose of promoting the general welfare in a democratic society" and are justified in accordance with Article 4 of ICESCR.

For example, the measures include requirements related to the skills of applicants and the type of jobs they can be nominated for, including English language and work experience requirements and requirements that the relevant occupation be on a list of skills in demand and meet minimum salary levels as specified in the Core Skills Income Threshold. Such measures are reasonable and proportionate to ensure that Australia's skilled migration programs continue to operate with integrity and support Australia's economic needs, as well as helping ensure that the visa applicant has the necessary skills to function effectively in their job.

The measures in the Amendment Regulations as a whole are reasonable and proportionate to achieving the legitimate aims explained above and are therefore a permissible differentiation in the exercise of the right to work by non-citizens seeking to enter and work in Australia compared to Australian citizens and permanent residents.

A number of the features of the measures in the Amendment Regulations are aimed at ensuring non-citizens enjoy fair conditions of work and are protected from exploitation. The SID visa continues Annual Market Salary Rate requirements from the TSS visa, which ensures that a visa applicant must receive remuneration and employment conditions that are at least equivalent to what is, or would be, provided to an Australian worker performing the same work at the same location. Aligning sponsorship obligations under the SID visa with provisions introduced to support worker mobility addresses migration related settings that have been identified as exacerbating the vulnerability of temporary migrants to workplace exploitation, and which may inadvertently deter temporary migrants from resolving issues of exploitation. The reduction in work experience required for a SID visa recognises those who

work part time and on a casual basis, which promotes flexible work conditions and accounts for breaks in employment, and the participation of women in the workforce. These measures promote the right to fair conditions of work under Article 7 of the ICESCR.

The Amendment Regulations also provide flexibility for applicants under different types of work arrangements to access the temporary skilled migration program and provide clear pathways to permanent residence for all sponsored skilled workers. The amendments expand access to permanent residence for a cohort of temporary skilled workers already working in Australia, who otherwise would not have a pathway to permanent residence. Further, in allowing all sponsored employment to count towards permanent residence, applicants who have changed employers or the occupation in which they work will be able to access permanent residence more quickly. The grant of a permanent visa will enable these individuals to continue living and working in Australia and access the broader benefits of permanent residence. These measures promote the right to work under Article 6 of the ICESCR.

English language requirement

Like the TSS visa, the SID visa imposes an English language requirement which is equivalent to the requirements of the 482 TSS visa medium-term stream. Having an English language requirement as part of visa criteria engages the right to non-discrimination, particularly as it relates to the right to work, as it may impact the ability of some non-citizens to obtain a skilled work visa on the basis of language ability and hence work in Australia. As noted earlier, Australia is able to set requirements for the entry of non-citizens into Australia, and conditions for their stay, and does so on the basis of reasonable and objective criteria. The main objective of the English language requirement in the skilled visa criteria is to ensure that non-citizens seeking to live and work in Australia have a standard of English that will enable them to effectively perform the skilled work in relation to which they have been nominated for entry and stay in Australia, and also to facilitate their participation in the Australian community more broadly. The English language requirement for the SID visa reflects the longer period of stay for all SID visa holders and their potential to progress to permanent residence via the Subclass 186 visa. Insofar as this measure differentiates on the basis of language, it is a reasonable and proportionate response to the objective of promoting economic participation, social cohesion and integration into the Australian community.

Occupations

As noted, the Specialist Skills stream of the SID visa is open to all occupations except those in ANZSCO Major Groups 3, 7 and 8. ANZSCO Major Groups 3, 7 and 8 include trades workers, machinery operators and drivers, and labourers. Ineligible occupations in the Specialist Skills stream were outlined in the *Migration Strategy* following public consultation and stakeholder feedback and reflects that the Specialist Skills Stream is aimed at highly skilled migrants who bring significant economic benefits to Australia. Trades workers, machinery operators and drivers, and labourers are eligible, subject to their occupation being

listed on the CSOL and meeting other eligibility criteria, under the Core Skills stream of the SID visa.

The Core Skills stream of the SID visa is open to occupations on the new CSOL, which relates to occupations identified by Jobs and Skills Australia as being in national shortage. The CSOL includes 70 new occupations that were not previously available for the TSS visa, including new occupations in the health, childcare, education, construction and cyber sectors. The Core Skills stream is designed to bring in the skilled employees Australia needs now and in the future. Occupations not included on the CSOL were not supported by labour market analysis. Applicants may consider other pathways under which these occupations may be available including the Specialist Skills or Labour Agreement streams of the SID visa.

For applicants, and current TSS visa holders, whose occupation is not on the CSOL, or does not qualify for the Specialist Skills or Labour Agreement stream, applicants will not have access to the SID visa or have a pathway to change employer (as a current TSS visa holder). To the extent this may engage the right to work, as it may impact the ability of some non-citizens to obtain a skilled work visa in their chosen occupation, these individuals can utilise the strengthened mobility provisions which enable more time for the migrant to find work in a new occupation, or apply for another visa, such as other permanent and provisional skilled visas, or depart Australia. Further, current TSS visa holders who work in an occupation that is not on the CSOL will still have a pathway to permanent residence, subject to meeting relevant eligibility criteria, through the TRT stream of the Subclass 186 visa.

As noted, Australia is able to set requirements for the entry of non-citizens into Australia, and conditions for their stay, and does so on the basis of reasonable and objective criteria. The main objective of updating occupation requirements under the SID visa is to ensure the SID visa is open to migrants who will fill skills shortages and drive Australia's long-term prosperity and growth in sectors of national importance, for the benefit of the Australian community, while also providing continued access for Australian citizens and permanent residents to paid employment. Such measures are reasonable and proportionate to ensure that Australia's skilled migration programs continue to operate with integrity and support Australia's economic needs.

Financial capacity requirements

The SID visa also ensures that employers are able to pay the nominated salary in the Specialist Skills and Core Skills streams. This helps ensure that migrants receive their nominated salary and employers cannot inflate salaries to access the Specialist Skills stream as a means for a visa outcome where the occupation is excluded from the Core Skills stream if it is not on the CSOL.

Setting financial capacity requirements engages the right to just and favourable conditions of work and the right to work because it safeguards against migrant worker exploitation and supports continued access for Australian citizens and permanent residents to paid employment by ensuring the SID visa is open to migrants who will fill skills shortages and drive Australia's long-term prosperity and growth in sectors of national importance, for the

benefit of the Australian community. Such measures are reasonable and proportionate to ensure that Australia's skilled migration programs continue to operate with integrity and support Australia's economic needs.

Family members

Article 17(1) of the ICCPR provides:

> *No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.*

Article 23(1) of the ICCPR provides:

> *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*

Article 10 of the CRC provides:

> *[A]pplications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.*

Like the TSS visa, the new SID visa allows primary applicants to have their partner and/or children join them in Australia as either secondary or subsequent applicants thereby continuing to promote rights relating to family unity. Further, babies born in Australia to a SID visa holder, or current TSS visa holder, are granted a SID visa, by operation of law, if they do not acquire Australian citizenship through the other parent being an Australian citizen or permanent resident.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

The Hon Tony Burke MP

Minister for Immigration and Multicultural Affairs

ATTACHMENT B

Details of the *Migration Amendment (2024 Measures No. 1) Regulations 2024*

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Regulations).

Section 2 – Commencement

This section provides that the Regulations commence on 7 December 2024.

Section 3 – Authority

This section provides that the *Migration Amendment (2024 Measures No. 1) Regulations 2024* are made under the *Migration Act 1958* (Migration Act).

Section 4 – Schedules

This section provides that 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

Migration Regulations 1994

Item [1] – Regulation 1.03

This item inserts the definitions for ***core skills income threshold*** and ***specialist skills income threshold*** into regulation 1.03 of the Migration Regulations.

The ***core skills income threshold*** is defined to mean $73,150.

The ***specialist skills income threshold*** is defined to mean $135,000.

The ***core skills income threshold*** and ***specialist skills income threshold*** have both been embedded in the nomination requirements in relation to a proposed occupation for the Subclass 482 (Skills in Demand) visa through item [34]. The effect is that, under paragraph 2.72(15)(f), the Minister must be satisfied that the annual earnings of the nominee, not including non-monetary benefits, will not be less than:

- if the occupation is nominated for the Specialist Skills stream – $135,000;
- if the occupation is nominated for the Core Skills stream – $73,150.

The note to the definitions of ***core skills income threshold*** and ***specialist skills income threshold*** clarifies that the amounts set out will be subject to indexation under regulation 5.42A.

Item [2] – Subregulation 1.12(5) (table item 5, column 2, after paragraph (a))

This item inserts a reference to the Subclass 482 (Skills in Demand) visa after paragraph (a) in the cell in column 2 of item 5 in the table under subregulation 1.12(5) of the Migration Regulations.

Regulation 1.12 provides for the meaning of ***member of the family unit*** for the purposes of the main definition of this expression in subsection 5(1) of the *Migration Act 1958* (the Migration Act). The general rule for children is set out in paragraph 1.12(2)(b), which, in essence, makes it clear that a child is no longer a ***member of the family unit*** of a person once they turn 23 years old, unless they are wholly or substantially reliant on the other person for financial support because they are incapacitated for work due to the total or partial loss of their bodily or mental functions (under paragraph 1.05A(1)(b) of the Regulations).

The table under subregulation 1.12(5) has the effect of deeming certain secondary applicants for a permanent visa as a ***member of the family unit*** of a primary applicant for the same visa, even if they have turned 23 years old. The table currently covers applicants on a pathway from a temporary visa (listed in column 2) to a permanent visa (listed in column 1), where it would not be appropriate to exclude dependent children who have come to Australia with the family at a younger age.

The effect of this item is, in effect, to deem a person to be a ***member of the family unit*** of a primary applicant for an Employer Nomination (Permanent) (Class EN) visa, if, at the time of the application:

- the person is included in the application for the Employer Nomination (Permanent) (Class EN) visa; and

- the person holds a Subclass 482 (Skills in Demand) visa granted on the basis that the person was a ***member of the family unit*** of a person holding that visa of the same kind.

Item [3] – Subregulation 1.12(5) (table item 6, column 2, after paragraph (a))

This item inserts a reference to the Subclass 482 (Skills in Demand) visa after paragraph (a) in the cell in column 2 of item 6 in the table under subregulation 1.12(5) of the Migration Regulations.

The effect of this item is that a person is deemed to be a ***member of the family unit*** of a primary applicant for a Regional Employer Nomination (Permanent) (Class RN) visa, if, at the time of the application:

- the person is included in the application for the Regional Employer Nomination (Permanent) (Class RN) visa; and

- the person holds a Subclass 482 (Skills in Demand) visa that was granted on the basis that the person was a ***member of the family unit*** of a person who held that visa of the same kind.

Item [4] – Subregulation 1.12(5) (table item 8, column 1)

This item amends the cell in column 1 of item 8 in the table under subregulation 1.12(5) of the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting "(Skills in Demand)".

The combined effect of the amendments in item [4] and item [5] is to make it clear that a person is deemed to be a ***member of the family unit*** of a primary applicant for a Subclass 482 (Skills in Demand) visa, if, at the time of the application:

- the person is included in the application for the Subclass 482 (Skills in Demand) visa; and
- the person holds any of the following visas:
    - Subclass 457 (Temporary Work (Skilled)) visa;
    - Subclass 482 (Temporary Skill Shortage) visa;
    - Subclass 482 (Skills in Demand) visa.

Item [5] – Subregulation 1.12(5) (table item 8, column 2, after paragraph (a))

This item inserts paragraph (ab) referencing the Subclass 482 (Skills in Demand) visa after paragraph (a) in the cell in column 2 of item 8 in the table under subregulation 1.12(5) of the Migration Regulations.

The insertion of the paragraph supports the amendment in item [4]. Further details about the combined effects of the amendments are provided for in item [4].

Item [6] – Subregulation 1.12(5) (table item 9, column 2, after paragraph (a))

This item inserts paragraph (ab) referencing the Subclass 482 (Skills in Demand) visa after paragraph (a) in the cell in column 2 of item 9 in the table under subregulation 1.12(5) of the Migration Regulations.

The effect of this item is to ensure that a person is deemed to be a member of the family unit of a primary applicant for a Subclass 189 (Skilled – Independent) visa in the Hong Kong stream, if, at the time of the application:

- the person is included in the application to the Subclass 189 (Skilled – Independent) visa in the Hong Kong stream; and
- the person holds any of the following visas:
    - Subclass 457 (Temporary Work (Skilled)) visa;
    - Subclass 482 (Temporary Skill Shortage) visa;
    - Subclass 482 (Skills in Demand) visa;
    - Subclass 485 (Temporary Graduate) visa.

Item [7] – Subregulation 1.12(5) (table item 11, column 2, after paragraph (a))

This item inserts paragraph (ab) referencing the Subclass 482 (Skills in Demand) visa after paragraph (a) in the cell in column 2 of item 11 in the table under subregulation 1.12(5) of the Migration Regulations.

The effect of this item is to ensure that a person is deemed to be a ***member of a family unit*** of a primary applicant for a Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Hong Kong stream, if, at the time of the application:

- the person is included in the application for the visa in the Hong Kong stream; and
- the person holds any of the following visas:
    - Subclass 457 (Temporary Work (Skilled)) visa;
    - Subclass 482 (Temporary Skill Shortage) visa;
    - Subclass 482 (Skills in Demand) visa;
    - Subclass 485 (Temporary Graduate) visa.

Item [8] – After paragraph 1.20(4)(h)

This item inserts paragraph 1.20(4)(ha) into the Migration Regulations.

Regulation 1.20 sets out a range of undertakings that must be made for a sponsor of an applicant for certain classes of visa. Subregulation 1.20(4) provides that regulation 1.02 does not apply to a visa in the listed classes or subclasses.

The effect of paragraph 1.20(4)(ha) is to exempt the Subclass 482 (Skills in Demand) visa from regulation 1.20. The intention is for the sponsorship regime in relation to the Subclass 482 (Skills in Demand) visa to instead be governed by Division 3A of Part 2 of the Migration Act, which expressly applies in relation to the temporary sponsored work visa program (see subsection 140AA(1) of the Act).

Item [9] – After paragraph 2.05(4AC)(b)

This item inserts paragraph 2.05(4AC)(ba) into the Migration Regulations.

Paragraph 41(2B)(b) of the Migration Act, in effect, provides that a condition of a visa allowing a holder to work is not taken to allow the holder to participate in, or support, an ***offshore resources activity*** in relation to any area unless the visa is prescribed. The visas prescribed for this paragraph are listed in subregulation 2.05(4AC) of the Migration Regulations.

Paragraph 2.05(4AC)(ba) prescribes the Subclass 482 (Skills in Demand) visa as a visa for the purposes of paragraph 41(2B)(b) of the Migration Act. This enables the holder of the visa to participate in, or support, an ***offshore resources activity***. As discussed under item [10], the visa holder will be able to travel directly to the site of the ***offshore resources activity*** without having to enter Australia in a port or on a pre-cleared flight.

The meaning of ***offshore resources activity*** is provided for in subsection 9A(5) of the Migration Act.

Item [10] – After subparagraph 2.06AAC(1)(a)(iii)

This item inserts subparagraph 2.06AAC(1)(a)(iiia) into the Migration Regulations.

The effect of the subparagraph is to provide permission for a person holding a Subclass 482 (Skills in Demand) visa that is in effect, who will be in an area to participate in, or support, an ***offshore resources activity*** in relation to that area, to travel to Australia on a vessel for that reason.

This means that they will not be required to enter Australia in a port or on a pre-cleared flight, as conventionally required under paragraphs 43(1)(a) and (b) of the Migration Act, and will be able to directly travel to the location where the ***offshore resources activity*** is occurring.

Item [11] – After paragraph 2.12F(2B)(j)

This item inserts new paragraph 2.12F(2B)(ja) into the Migration Regulations.

The effect of the new paragraph is to require the Minister to refund the first instalment of the visa application charge (VAC) for an application to the Subclass 482 (Skills in Demand) visa if one of these circumstances occurs:

- the application was withdrawn because there was not an approved nomination that identified the applicant (paragraph 2.12F(2)(f)); or

- the application was withdrawn because the applicant was not required to be identified in an approved nomination and did not have an approved work sponsor (paragraph 2.12F(2)(g)).

Item [12] – Paragraph 2.43(1)(kc)

This item amends paragraph 2.43(1)(kc) of the Migration Regulations by adding "or Subclass 482 (Skills in Demand) visa" after "Labour Agreement stream".

Subregulation 2.43(1) of the Migration Regulations sets out prescribed grounds that allow the Minister to cancel a visa under paragraph 116(1)(g) of the Migration Act (which provides for visa cancellation under section 116 where a prescribed ground for cancelling a visa applies to the visa holder).

The effect of the amendment is to insert a reference in current paragraph 2.43(1)(kc) to the new Subclass 482 (Skills in Demand) visa. This means that the Minister is empowered to cancel a Subclass 482 (Temporary Skill Shortage) visa, or a Subclass 482 (Skills in Demand) visa, if, despite the grant of the visa, the Minister is satisfied that:

- the holder did not have a genuine intention at the time of the visa to perform the occupation mentioned in subclause 482.212(2) of Schedule 2 (subparagraph 2.43(1)(kc)(i); or

- the holder has ceased to have a genuine intention to perform that occupation (subparagraph 2.43(1)(kc)(ii)); or

- the position associated with that occupation is not genuine (subparagraph 2.43(1)(kc)(iii).

Item [13] – After subparagraph 2.43(1)(ld)(x)

This item inserts subparagraph 2.43(1)(ld)(xa) into the Migration Regulations.

Subregulation 2.43(1) of the Migration Regulations sets prescribed grounds that allow the Minister to cancel a visa under paragraph 116(1)(g) of the Migration Act (which provides for visa cancellation under section 116 where a prescribed ground for cancelling a visa applies to the visa holder).

The insertion of the paragraph in effect empowers the Minister to cancel a Subclass 482 (Skills in Demand) visa held by a ***secondary sponsored person*** in relation to a person who is or was an ***approved work sponsor***, if the ***approved work sponsor*** has not listed the ***secondary work sponsor*** in the latest nomination in which the ***primary sponsored person*** is identified.

Item [14] – After subparagraph 2.43(1)(le)(v)

This item inserts subparagraph 2.43(1)(le)(va) into the Migration Regulations.

Subregulation 2.43(1) of the Migration Regulations sets out prescribed grounds that allow the Minister to cancel a visa under paragraph 116(1)(g) of the Migration Act (which provides for visa cancellation under section 116 where a prescribed ground for cancelling a visa applies to the visa holder).

The insertion of the paragraph empowers the Minister to cancel a Subclass 482 (Skills in Demand) visa regardless of whether the holder is a ***primary sponsored person*** or a ***secondary sponsored person***, if the ***approved work sponsor*** has paid the return travel costs of the holder in accordance with the sponsorship obligation mentioned in regulation 2.80 or 2.80A.

Item [15] – After subparagraph 2.43(1)(s)(ix)

This item inserts subparagraph 2.43(1)(s)(ixa) into the Migration Regulations.

Subregulation 2.43(1) of the Migration Regulations sets out prescribed grounds that allow the Minister to cancel a visa under paragraph 116(1)(g) of the Migration Act (which provides for visa cancellation under section 116 where a prescribed ground for cancelling a visa applies to the visa holder).

The effect of the subparagraph is to enable the Minister to cancel a Subclass 482 (Skills in Demand) visa held by a non-citizen who is in Australia and not immigration cleared, if the Minister reasonably believes that the visa holder has contravened subsection 126(2), 128(2), 186A(1), 532(1) or 533(1) of the *Biosecurity Act 2015*.

Item [16] – Paragraph 2.59(h)

This item amends paragraph 2.59(h) of the Migration Regulations by inserting ", Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

Regulation 2.59 of the Migration Regulations sets out the criteria for approval as a ***standard business sponsor*** for subsection 140E(1) of the Migration Act. Paragraph 2.59(h) sets out one criterion to which the Minister to be satisfied, if the applicant seeking approval as a ***standard business sponsor*** is lawfully operating a business outside Australia and does not lawfully operate a business in Australia.

This item inserts a reference to the Subclass 482 (Skills in Demand) visa into paragraph 2.59(h), and works together with the change introduced by item [17]. The combined effect of the amendments in these two items is that an applicant lawfully operating an overseas business etc can become a *standard business sponsor* for the purposes of sponsoring a person holding or applying for a Subclass 482 (Skills in Demand) visa, if they satisfy the criteria in paragraphs 2.59(a) to (g) and intend for the visa holder or applicant to:

- establish, or assist in establishing, on behalf of the applicant, a business operation in Australia with overseas connections (subparagraph 2.59(h)(i)); or

- fulfil, or assist in fulfilling, a contractual obligation of the applicant (subparagraph 2.59(h)(ii)).

Item [17] – Paragraph 2.59(h)

This item amends paragraph 2.59(h) of the Migration Regulations by omitting the second occurring "(Temporary Skill Shortage)" and substituting "(Skills in Demand)".

This item supports the amendment made by item [16] by amending paragraph 2.59(h) to reflect the fact that the Subclass 482 (Temporary Skill Shortage) visa will no longer be open to any new applications upon the commencement date.

This means that, in relation to the Subclass 482 (Temporary Skill Shortage) visa, an applicant operating an overseas business etc can only be approved as a ***standard business sponsor*** for the purposes of sponsoring a person who holds an existing Subclass 482 (Temporary Skill Shortage) visa, who may be seeking a new nomination to change their employer.

Item [18] – Regulation 2.72 (heading)

This item amends the heading of regulation 2.72 of the Migration Regulations by omitting "**Temporary Skill Shortage**" and substituting "**Skills in Demand**".

This change updates the heading of regulation 2.72 to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the closure of the Subclass 482 (Temporary Skill Shortage) visa to any new applications, from the commencement date onwards.

Item [19] – After paragraph 2.72(1)(b)(ii)

This item s inserts subparagraph 2.72(1)(b)(iia) into the Migration Regulations.

Regulation 2.72 sets out the criteria for the approval of a nomination in relation to a person who, under paragraph 140GB(1)(b) of the Act, nominates a proposed occupation in relation to any of the following classes of nominees set out in paragraph 2.72(1)(b):

- a holder of a Subclass 457 (Temporary Work (Skilled)) visa;
- a holder of a Subclass 482 (Temporary Skill Shortage) visa;
- an applicant or a proposed applicant for a Subclass 482 (Skills in Demand) visa.

New subparagraph 2.72(1)(b)(iia) operates in conjunction with the amendment made by item [20] to update paragraph 2.72(1)(b) to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

The effect of this insertion is to ensure that the criteria in regulation 2.72 applies to the nomination of a proposed occupation in relation to a nominee who, at the time that the nomination is made, is an existing holder of a Subclass 482 (Skills in Demand) visa. This is relevant to holders of a Subclass 482 (Skills in Demand) visa who would require a new nomination because they seek to change their employer.

Item [20] – Subparagraph 2.72(1)(b)(iii)

This item amends subparagraph 2.72(1)(b)(iii) of the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting a reference to "(Skills in Demand)".

This item updates subparagraph 2.72(1)(b)(iii) to reflect the introduction of the Subclass 482 (Skills in Demand) visa, and the closure of the Subclass 482 (Temporary Skill Shortage) visa to any new applications from the commencement date onwards.

Despite the closure of the Subclass 482 (Temporary Skill Shortage) visa to new applications, regulation 2.72 still applies to existing holders of the visa who is the subject of a new nomination, due to the operation of subparagraph 2.72(1)(b)(ii).

Item [21] – Paragraph 2.72(5)(a)

This item amends paragraph 2.72(5)(a) of the Migration Regulations by omitting "(Temporary Skill Shortage) in the Short-term or Medium-term stream" and substituting "(Skills in Demand) visa in the Specialist Skills stream or Core Skills stream".

This item updates paragraph 2.72(5)(a) to reflect the replacement of the Subclass 482 (Temporary Skill Shortage) visa by the Subclass 482 (Skills in Demand) visa, and the creation of the new Specialist Skills and Core Skills streams within the visa. The effect of this item is to require the Minister to be satisfied that a person who made the nomination for a Subclass 482 (Skills in Demand) visa in either the Specialist Skills stream or the Core Skills stream is a ***standard business sponsor***.

As defined in regulation 1.03 of the Migration Regulations, a ***standard business sponsor*** refers to a person who is an approved work sponsor, and is approved as a work sponsor in relation to the standard business sponsor class by the Minister under subsection 140E(1) of the Migration Act.

Item [22] – After paragraph 2.72(6)(a)

This item inserts paragraph 2.72(6)(aa) into the Migration Regulations.

The paragraph requires the Minister to be satisfied, for a nominee to the Subclass 457 (Temporary Work (Skilled)) visa, or the Subclass 482 (Temporary Skill Shortage) visa, or the Subclass 482 (Skills in Demand) visa, that the person making the nomination has listed on the nomination each other holder of those kinds of visa who was granted the visa on the basis of having the necessary relationship with the nominee as mentioned in clause 457.321 of Schedule 2 (as in force before 18 March 2018) or subclause 482.312(1) of Schedule 2 to the Migration Regulations.

This in effect requires the person making the nomination to list members of the family unit of a nominee (including dependents) who are secondary holders of one of the following visas, on the basis that the nominee is the primary holder of any of these visas:

- Subclass 457 (Temporary Work (Skilled)) visa;
- Subclass 482 (Temporary Skill Shortage) visa;
- Subclass 482 (Skills in Demand) visa (see the changes made by item [88]).

This item does not prevent the Minister from exercising their discretion under subregulation 2.72(7) of the Migration Regulations to disregard the fact that one or more persons required to be listed on the nomination are not listed, if the Minister is satisfied that it is reasonable in the circumstances to do so.

This requirement is necessary to facilitate the transfer of sponsorship obligations from the current sponsor of the nominee to the proposed new sponsor, in relation to any secondary holders of the skilled visas listed above, upon the approval of the nomination.

Item [23] – Subregulation 2.72(6)

This item amends subregulation 2.72(6) of the Migration Regulations by omitting “either of” and substituting the words “any of” in subregulation 2.72(6) of the Migration Regulations.

This is a consequential amendment that is required by the change introduced by item [22]. The change is necessary to reflect the fact that subregulation 2.72(6) now references the Subclass 457 (Temporary Work (Skilled)) visa, the Subclass 482 (Temporary Skill Shortage) visa, and the Subclass 482 (Skills in Demand) visas.

Item [24] – Subregulation 2.72(8)

This item repeals and substitute subregulation 2.72(8), which previously provided for the nominated occupation requirements for nominations to the Subclass 482 (Temporary Skill Shortage) visa.

The subregulation has the effect of setting out the nominated occupation requirements for each stream of the new Subclass 482 (Skills in Demand) visa. The effect of this item is to require the Minister to be satisfied of the following in relation to a proposed occupation:

- for the Specialist Skills stream – the occupation and its corresponding 6-digit code corresponds to an occupation and its corresponding 6-digit code in Major Group 1, 2, 4, 5, or 6 in ANZSCO, and applies to the nominee in accordance with any matters specified for the occupation in force in new subregulation 2.72(8) in force at the time the nomination is made. The effect is that any occupation listed in Major Groups 3, 7, and 8 of ANZSCO (which encompasses trade workers, machinery operators and drivers, and labourers) does not meet the nomination requirements for the Specialist Skills stream.

- for the Core Skills stream – the occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified in an instrument made by the Minister under subregulation 2.72(9), in force at the time that the nomination is made, and that the occupation applies to the nominee in accordance with the instrument.

- for the Labour Agreement stream – the proposed occupation is the subject of the work agreement mentioned in clause 482.241 of Schedule 2 to the Migration Regulations, and that the occupation applies to the nominee in accordance with the work agreement.

The Minister's instrument-making power under subregulation 2.72(9) is retained (subject to the repeal of paragraph 2.72(9)(a), as detailed in item [25]). This empowers the Minister to make a legislative instrument that specifies occupations that could be nominated with respect to a class of nominee listed in paragraph 2.72(1)(b).

For example, this power could enable the Minister to make an instrument that specifies the occupations listed in the Core Skills Occupation List (CSOL). This is a list of occupations informed by labour market advice and stakeholder consultation undertaken by Jobs and Skills Australia setting out occupations that have been identified as being in national shortage and where migration is an appropriate solution, as well as occupations that Australia has committed to providing access to in our labour market through international trade obligations. The Minister could also choose to make an instrument that specifies each occupation that is eligible for the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa.

Item [25] – Paragraph 2.72(9)(a)

This item repeals paragraph 2.72(9)(a) of the Migration Regulations.

Paragraph 2.72(9)(a) currently provides that the Minister may specify, for each occupation listed in the instrument made under subregulation 2.72(9), whether the occupation is a short term skilled occupation, or a medium and long term strategic skills occupation.

The repeal of this paragraph is required to reflect the fact that the Short-term Skilled Occupation List (STSOL) and the Medium and Long-term Strategic Skills Occupation Lists

(MLTSSL) is supplanted by a new occupation list, given that the Subclass 482 (Temporary Skill Shortage) visa is replaced by the Subclass 482 (Skills in Demand) visa.

This item supports the change made in item [23] to establish a framework that allows the Minister to specify a list of skilled occupations for the Specialist Skills stream and Core Skills Stream of the Subclass 482 (Skills in Demand) visa, under his instrument-making power in subregulation 2.72(9). The previous requirements in paragraphs 2.72(9)(b) and (c) are retained to provide that the Minister is to specify either:

- the 6-digit ANZSCO code for the occupation (paragraph 2.72(9)(b)); or
- if there is no 6-digit ANZSCO code for the occupation – a 6-digit code for the occupation, and the tasks, qualifications, and experience for the occupation (sub-paragraph 2.72(9)(b)(ii) and paragraph 2.72(9)(c)).

Importantly, the retention of sub-paragraph 2.72(9)(b)(ii) and paragraph 2.72(9)(c) allows the Minister flexibility to add emerging occupations into the instrument.

Item [26] – Subregulation 2.72(11) (heading)

This item amends the heading to subregulation 2.72(11) of the Migration Regulations by omitting "*Short-term stream and Medium-term stream*" and substituting "*Specialist Skills stream and Core Skills stream*".

This amendment updates the heading to subregulation 2.72(11) to reflect the replacement of the Subclass 482 (Temporary Skill Shortage) visa by the Subclass 482 (Skills in Demand) visa, and the implementation of the Specialist Skills and Core Skills streams of the visa.

Item [27] – Paragraphs 2.72(11)(a) and (12)(a)

This item amends paragraphs 2.72(11)(a) and (12)(a) of the Migration Regulations by omitting the reference to the "(Temporary Skill Shortage) visa in the Short-term stream or Medium term stream" and substituting a reference to the "(Skills in Demand) visa in the Specialist Skills stream or Core Skills stream".

The effect of this item is to ensure that, if a person nominates an occupation for a Subclass 482 (Skills in Demand) visa in either the Specialist Skills stream or the Core Skills stream, and this occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13), that the Minister is satisfied that:

- if the person is not an overseas business sponsor – the nominee will be engaged only as an employee under a written contract of employment by the person or an associated entity of the person (the *employer*); and the person will give the Minister a copy of the contract signed by the employer and employee.
- if the person is an overseas business sponsor – the nominee will be engaged only as an employee under a written contract of employment by the person; and the person will give the Minister a copy of the contract signed by the person and employee.

Item [28] – Subregulation 2.72(13)

This item inserts a reference to new paragraph 2.73(14A)(c) in subregulation 2.72(13) of the Migration Regulations.

This is a consequential amendment that arises out of paragraph 2.73(14A)(c), inserted through item [54]. The paragraph provides that, unless the occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13), that a person making a nomination for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream must certify in writing that the occupation is a position in:

- if the person is an overseas business sponsor etc – the person's business (subparagraph 2.73(14A)(a)(c)(i)); or
- in any other case – the person's business of a business of an associated entity of the person (subparagraph 2.73(14A)(a)(c)(ii)).

The effect of the reference to new paragraph 2.73(14A)(c) is to enable the Minister to create an instrument specifying a list of occupations that are exempt from the conventional requirement that is provided for in that paragraph.

Item [29] – Subregulation 2.72(13)

This item amends subregulation 2.72(13) of the Migration Regulations by omitting a reference to current clause 482.224 of Schedule 2 to the Migration Regulations, and substituting a reference to clause 482.223.

The item is a consequential amendment that reflects the re-numbering of previous clause 482.224 to clause 482.223 under item [88]. As noted below, one effect of item [88] is to repurpose the current "nomination occupation requirement" provision in clause 482.224 of Schedule 2 to the Migration Regulations to apply to an applicant for the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa.

The effect of this is that the Minister may specify occupations by legislative instrument for the purposes of clause 482.223 of Schedule 2 to the Migration Regulations, under his power in subregulation 2.72(13).

Item [30] – Paragraph 2.72(14)(a)

This item amends paragraph 2.72(14)(a) of the Migration Regulations by omitting the reference to "(Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream" and substitute a reference to the "(Skills in Demand) visa in the Specialist Skills stream or Core Skills stream".

This item supports the amendments made by items [31] and [32] to require a person making a nomination for the Specialist Skills stream or Core Skills stream of the Subclass 482 (Skills in Demand) visa to provide the Minister with evidence of the nominee's language proficiency, if the circumstances set out in item [32] apply.

Item [31] – Paragraph 2.72(14)(b)

This item amends paragraph 2.72(14)(b) of the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

This item supports the amendments made by items [30] and [32] by clarifying that the requirement spelled out in subregulation 2.72(14) applies to a nominee who holds a Subclass 457 (Temporary Work (Skilled)) visa, Subclass 482 (Skills in Demand) visa, or Subclass 482 (Temporary Skill Shortage) visa.

The effect of these changes is to require a person nominating an occupation for the Specialist Skills or Core Skills stream for a person who holds one of these above visas to provide the Minister with evidence of the nominee's language proficiency, if the circumstances set out in item [32] apply.

Item [32] – Paragraphs 2.72(14)(d) and (e)

This item repeals and substitute paragraphs 2.72(14)(d) and 2.72(14)(e) of the Migration Regulations.

The paragraphs work alongside with the changes provided for by items [30] and [31]. The combined effect of these changes is to require a person nominating an occupation for the Specialist Skills stream or Core Skills stream of the Subclass 482 (Skills in Demand) visa to provide the following, if the nominee holds a Subclass 457 (Temporary Work (Skilled)) visa, Subclass 482 (Skills in Demand) visa, or Subclass 482 (Temporary Skill Shortage) visa, and the Minister has requested the person to provide evidence that the nominee satisfies the language test requirements:

- for an occupation nominated for the Specialist Skills stream – evidence that the nominee has satisfied the language test requirements specified by the Minister in a legislative instrument created under new subclause 482.222(1) of Schedule 2; and

- for an occupation nominated for the Core Skills stream – evidence that the nominee has satisfied the language test requirements specified by the Minister in a legislative instrument created under new subclause 482.232(1) of Schedule 2.

As explained in item [88] below, both applicants for the Specialist Skills stream and Core Skills stream of the Subclass 482 (Skills in Demand) visa would have to meet the English language requirements that are specified in a legislative instrument made by the Minister, and if required, to demonstrate English language proficiency in a manner specified by the Minister.

Item [33] – Paragraphs 2.72(15)(a)

This item repeals and substitute paragraph 2.72(15)(a) of the Migration Regulations.

Subregulation 2.75(15) currently set out a series of provisions governing the assessment of the annual market salary rate (AMSR) for a nominated occupation. Currently, paragraphs 2.72(15)(a) and (b) work together to ensure that the annual market salary assessment provisions in paragraphs 2.72(15)(c) to (g) apply where both of the following requirements are met:

- the occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream (paragraph 2.72(15)(a)); and

- the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified by the Minister in a legislative instrument made for the purposes of the paragraph (paragraph 2.72(15)(b))

The current legislative instrument made under paragraph 2.72(15)(b) is the Migration (*IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018*). This instrument currently specifies an amount of annual earnings of AUD 250,000. As a result, the annual market salary assessment will not be required if the nominee's annual earnings is at least this amount.

The effect of this item is to substitute a new paragraph 2.72(15)(a) that expressly references an occupation nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream.

The combined effect of paragraphs 2.72(15)(a) and (b) is to make it clear that, if an occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream, and the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified in the instrument under paragraph 2.72(15)(b) (i.e., currently AUD 250,000), then the Minister must be satisfied that the requirements set out in paragraph 2.72(15)(c) to (g) have been fulfilled for the nomination to be approved.

Item [34] – Paragraph 2.72(15)(d)

This item repeals and substitute paragraph 2.72(15)(d) of the Migration Regulations.

Currently, paragraph 2.72(15)(d) provides that the AMSR, excluding any non-monetary benefits, for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the temporary skilled migration income threshold (TSMIT) specified by the Minister.

Paragraph 2.72(15)(d) provides that the AMSR, excluding any non-monetary benefits, for the occupation (determined by the person in accordance with an instrument made under subregulation 2.72(17)) is not less than the following:

- if the occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream – the ***specialist skills income threshold*** ($135,000); or

- if the occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Core Skills stream – the ***core skills income threshold*** ($73,150).

Item [35] – Paragraph 2.72(15)(f)

This item repeals and substitutes paragraph 2.72(15)(f) of the Migration Regulations.

Currently, paragraph 2.72(15)(f) provides that the nominee's annual earnings, excluding any non-monetary benefits, in relation to the occupation will not be less than the TSMIT

specified by the Minister in a legislative instrument made for the purposes of paragraph 2.72(15)(d).

Paragraph 2.72(15)(f) has the effect of embedding the ***specialist skills income threshold*** and the ***core skills income threshold*** into the nomination criteria listed under subregulation 2.72(15). The effect of this is to provide that the nominee's annual earnings, excluding non-monetary benefits, must not be less than:

- if the occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream – the ***specialist skills income threshold*** ($135,000); or

- if the occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Core Skills stream – the ***core skills income threshold*** ($73,150).

The definitions of ***core skills income threshold*** and ***specialist skills income threshold*** have been inserted into regulation 1.03A of the Migration Regulations through item [1], with these amounts to be indexed annually under the process set out under regulation 5.42A.

These criteria apply to current holders of a Subclass 482 (Skills in Demand) visa who are the subject of a new nomination for a proposed occupation (i.e., those who are seeking to change their employer), and also to an applicant or a proposed applicant for a Subclass 482 (Skills in Demand) visa. If the income threshold requirements are not met, the Minister must refuse the nomination.

Under paragraph 2.72(16)(b), however, the Minister may exercise their discretion to disregard this criterion if it is reasonable to do so.

Item [36] – Subparagraph 2.72(16)(a)(i)

This item repeals and substitutes subparagraph 2.72(16)(a)(i) of the Migration Regulations.

This substituted subparagraph 2.72(16)(a)(i) differs from the repealed version as it replaces the reference to TSMIT with a reference to the ***specialist skills income threshold*** or ***core skills income threshold***. The effect is that the Minister may disregard the criterion in paragraph 2.72(15)(d) if they are satisfied that:

- the AMSR for the occupation rate is not less than the amount of the ***specialist skills income threshold*** or ***core skills income threshold*** that applies in relation to the occupation (subparagraph 2.72(16)(a)(i)); and

- it is reasonable in the circumstances to do so (subparagraph 2.72(16)(a)(ii)).

The policy rationale for providing the Minister with a discretionary power to disregard the criterion in paragraph 2.72(15)(d) is to enable him to approve a nomination where the annual market salary rate (including non-monetary benefits) exceeds the ***specialist skills income threshold*** or ***core skills income threshold*** that applies in relation to the occupation, e.g., because the position involves a significant accommodation component such as might apply to workers in remote locations.

Item [37] – After subregulation 2.72(17)

This item inserts subregulation 2.72(17A) after subregulation 2.72(17) to establish a financial capacity requirement that applies to a nomination made for an occupation to the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa.

The subregulation requires a person making a nomination for an occupation to the Specialist Skills stream to demonstrate that their business has the capacity to employee the nominee for at least 2 years, for at least the Annual Market Salary rate for each year. This requirement parallels the existing requirement in force for a nomination to the Subclass 186 (Employer Nomination Scheme) visa, under paragraph 5.19(5)(n) of the Migration Regulations.

The purpose of this financial capacity requirement is to ensure that sponsors can pay the nominated salary, strengthen the integrity of the Subclass 482 (Skills in Demand) visa, and create safeguards against migrant worker exploitation. One example of the intended effect of this requirement is to ensure that employers do not inflate salaries for visa outcomes – like claiming a nominated salary of $135,000 to gain access to the Specialist Skills stream.

Item [38] – Subregulation 2.72(18)

This item amends subregulation 2.72(18) of the Migration Regulations by omitting the reference to "(Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream" and substituting a reference to the "(Skills in Demand) visa in the Specialist Skills stream or Core Skills stream".

This item has the effect of making it clear that the Minister must be satisfied, for an occupation nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream, that either:

- there is no information known to Immigration that indicates that the employment conditions (other than in relation to earnings) that will apply are less favourable than those that apply, or would apply to an Australian citizen or an Australian permanent resident performing equivalent work at the same location (sub-paragraph 2.72(18)(a)(i)); or

- it is reasonable to disregard any such information (sub-paragraph 2.72(18)(a)(ii))

The effect of paragraph 2.72(18)(b) is to provide that the Minister must be also satisfied that, if the person is lawfully operating a business in Australia, that the person has not engaged in discriminatory recruitment practices.

The meaning of ***discriminatory recruitment practices*** is defined in subregulation 2.57(1) to refer to a recruitment practice that directly or indirectly discriminates against a person based on the immigration status or citizenship of the person, other than a practice engaged in to comply with a Commonwealth, State or Territory law.

Item [39] – Subregulation 2.72(19)

This item amends subregulation 2.72(19) of the Migration Regulations by omitting the words "(Temporary Skill Shortage) visa in the" and substitute the words "(Skills in Demand) visa in the Skills in Demand".

This item complements the changes made by item [40] to update subregulation 2.72(19), ensuring that that it applies to an occupation that is nominated for the Labour Agreement stream in the Subclass 482 (Skills in Demand) visa. Further details about the effect of subregulation 2.72(19) are provided below in the explanation of item [40].

Item [40] – Paragraph 2.72(19)(c)

This item amends paragraph 2.72(19)(c) of the Migration Regulations by inserting ", Subclass 482 (Skills in Demand) visas" after "(Skilled)) visas".

This item complements the changes made by item [39] to update subregulation 2.72(19), ensuring that the provision applies to a nomination for an occupation in the Labour Agreement stream in the Subclass 482 (Skills in Demand) visa. The effect of subregulation 2.72(19) is to impose a nomination requirement for the Labour Agreement stream that must be satisfied in addition to those set out in subregulations 2.72(2) to (11).

Subregulation 2.72(19) provides, for an occupation nominated for the Labour Agreement stream, that the Minister must be satisfied that:

- the occupation is specified in the work agreement as an occupation that the person may nominate (paragraph 2.72(19)(a)); and
- if the work agreement specifies requirements that must be met by the party to the work agreement – the requirements of the work agreement have been met (paragraph 2.72(19)(b)); and
- the number of nominations in relation to Subclass 457 (Temporary Work (Skilled)) visas, Subclass 482 (Temporary Skill Shortage) visas, and Subclass 482 (Skills in Demand) visas made by the person approved by the Minister under section 140GB of the Act is less than the number of approved nominations in relation to those types of visa permitted under the work agreement for the year (paragraph 2.72(19)(c)).

Item [41] – Paragraph 2.72C(15)(b)

This item amends paragraph 2.72C(15)(b) by omitting "paragraph 2.72(15)(b)" and substituting "this paragraph".

The effect of items [41]-[44] is to retain existing arrangements in relation to the salary criteria in a nomination to the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. The instrument made by the Minister that specifies the annual earnings can now be created for the purposes of paragraph 2.72C(15)(b).

Item [42] – Paragraph 2.72C(15)(d)

This item amends paragraph 2.72C(15)(d) by omitting "paragraph 2.72(15)(d)" and substituting "this paragraph".

The effect of items [41]-[44] is to retain existing arrangements in relation to the salary criteria in a nomination to the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. The change introduced by this item arises from the fact that paragraph 2.72(15)(d) has been revised through item [33] to expressly reference the ***specialist skills***

income threshold and ***core skills income threshold***, rather than the TSMIT specified by the Minister in a legislative instrument.

The instrument made by the Minister specifying the TSMIT would now be made for the purposes of 2.72C(15)(d), rather than 2.72(15)(d).

Item [43] – Paragraph 2.72C(15)(f)

This item amends paragraph 2.72C(15)(d) by omitting "paragraph 2.72(15)(b)" and substituting "paragraph (d) of this subregulation".

The effect of items [41]-[44] is to retain existing arrangements in relation to the salary criteria in a nomination to the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. This new reference to "paragraph (d)" reflects the change made by item [42].

Item [44] – Paragraph 2.72C(16)(a)(i)

This item amends paragraph 2.72C(15)(d) by omitting "paragraph 2.72(15)(b)" and substituting "paragraph (d) of this regulation".

The effect of items [41]-[44] is to retain existing arrangements in relation to the salary criteria in a nomination to the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. This new reference to "paragraph (d)" reflects the change made by item [42].

Item [45] – Regulation 2.73 (heading)

This item amends the heading to regulation 2.73 of the Migration Regulations by omitting "**(Temporary Skill Shortage)**" and substituting a reference to "**(Skills in Demand)**".

This amendment to the heading of regulation 2.73 reflects the implementation of the Subclass 482 (Skills in Demand) visa from the commencement date onwards.

Item [46] – After paragraph 2.73(1)(a)

This item inserts paragraph 2.73(1)(ab) into the Migration Regulations.

Regulation 2.73 provides for the process of nominating a proposed occupation under paragraph 140GB(1)(b) of the Migration Act. Subregulation 2.73(1) previously provided that this regulation applies in relation to a person nominating a proposed application in relation to the following classes of nominees:

- a holder of a Subclass 457 (Temporary Work (Skilled)) visa;
- a holder of a Subclass 482 (Temporary Skill Shortage) visa;
- an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

The insertion of paragraph 2.73(1)(ab) expands the scope of regulation 2.73 to make it clear that it applies to a nominee who, at the time that the nomination is made, is an existing holder of a Subclass 482 (Skills in Demand) visa. This is relevant to holders of a Subclass

482 (Skills in Demand) visa who would require a new nomination because they seek to change their employer.

Item [47] – Paragraph 2.73(1)(c)

This item amends paragraph 2.73(1)(c) of the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting "(Skills in Demand").

The item updates the reference in paragraph 2.73(1)(c) to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the closure of the Subclass 482 (Temporary Skill Shortage) visa to any new applications upon the commencement day. This updated reference, when combined with the insertion of new paragraph 2.73(1)(ab) made by item [46], ensures that regulation 2.73 applies to a person nominating a proposed occupation in relation to any of the following classes of nominees:

- a holder of a Subclass 457 (Temporary Work (Skilled)) visa (paragraph 2.73(1)(a));
- a holder of a Subclass 482 (Skills in Demand) visa (paragraph 2.73(1)(ab));
- a holder of a Subclass 482 (Temporary Skill Shortage) visa (paragraph 2.73(1)(b));
- an applicant or a proposed applicant for a Subclass 482 (Skills in Demand) visa (paragraph 2.73(1)(c)).

Item [48] – Subregulation 2.73(6)

This item repeals and substitutes subregulation 2.73(6).

Subregulation 2.73(6) currently provides for a requirement that, unless an occupation is nominated for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream, the occupation for a Subclass 482 (Temporary Skill Shortage) visa must be nominated in:

- if the occupation is a short term skilled occupation specified in the instrument made under subregulation 2.72(9) in force at the nomination is made – the Short-term stream; or
- if the occupation is a medium and long term strategic skills occupation specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made – the Medium-term stream.

New subregulation 2.73(6) removes the references to the Short-term and Medium-term streams and instead delineate between the Specialist Skills stream and the Core Skills stream of the Subclass 482 (Skills in Demand) visa. These changes establish a requirement that, unless the occupation is nominated for a Subclass 482 (Skills in Demand) visa in the Labour Agreement Stream, the occupation must be nominated for a Subclass 482 (Skills in Demand) visa in:

- if the occupation is an occupation in Major Group 1, 2, 4, 5, or 6 in ANZSCO and the nominee's annual earnings (excluding non-monetary benefits) is equal or more

than the Specialist Skills Income Threshold – the Specialist Skills stream (paragraph 2.73(6)(a)); or

- if the occupation is an occupation specified in the instrument made under subregulation 2.72(9) in force at the time the nomination is made and new paragraph 2.73(6)(a) does not apply – the Core Skills stream (paragraph 2.73(6)(b)).

These requirements also support new subregulation 2.72(8), discussed in item [24], which sets out the nominated occupation requirements for each of the streams of the Subclass 482 (Skills in Demand) visa.

The changes made by this item create safeguards in the nomination process for the Subclass 482 (Skills in Demand) visa, ensuring that a nomination for an occupation can only be made for a stream to which the occupation and income threshold requirements could be satisfied. This also enable the Department's system processes to automatically determine the relevant visa stream based on occupation and salary information, unless the nominator identifies that the nomination was made for the purposes of a labour agreement.

Item [49] – Paragraph 2.73(9)(a)

This item amends paragraph 2.73(9)(a) of the Migration Regulations by omitting "(Temporary Skill Shortage) visa in the Short-term or Medium-term" and substituting a reference to "(Skills in Demand) visa in the Core Skills".

The effect of this updated reference to the Core Skills stream of the Subclass 482 (Skills in Demand) visa is to require a person making a nomination for an occupation to this stream to provide all of the following information as part of the nomination:

- the name of the occupation and the corresponding 6-digit code as they are specified under the instrument made under subregulation 2.72(9) in force at the time the nomination is made (paragraph 2.73(9)(a));

- the location or locations at which the occupation is to be carried out (paragraph 2.73(9)(c));

- the proposed period of stay for a visa granted on the basis of the nomination, in accordance to subregulations 2.73(10) and (11) (paragraph 2.73(9)(d));

- the annual turnover for the nomination (paragraph 2.73(9)(da));

- any other information specified by the Minister in a legislative instrument made for the purposes of this paragraph (paragraph 2.73(9)(e)).

This requirement to provide the information listed above, as part of the nomination, applies in addition to the requirement that the nomination must identify the nominee (as provided for under subregulation 2.73(8)).

Item [50] – After paragraph 2.73(9)(a)

This item inserts new paragraph 2.73(9)(aa) into the Migration Regulations to bring the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa under the requirements in subregulation 2.73(9).

The effect of this new reference to the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa is to require a person making a nomination for an occupation to this stream to provide all of the following information as part of the nomination:

- the name of the occupation and the corresponding 6-digit code as they are specified under the instrument made under subregulation 2.72(9) in force at the time the nomination is made (paragraph 2.73(9)(a));
- the location or locations at which the occupation is to be carried out (paragraph 2.73(9)(c));
- the proposed period of stay for a visa granted on the basis of the nomination, in accordance to subregulations 2.73(10) and (11) (paragraph 2.73(9)(d));
- the annual turnover for the nomination (paragraph 2.73(9)(da));
- any other information specified by the Minister in a legislative instrument made for the purposes of this paragraph (paragraph 2.73(9)(e)).

This requirement to provide the information listed above, as part of the nomination, applies in addition to the requirement that the nomination must identify the nominee (as provided for under subregulation 2.73(8)).

Item [51] – Subparagraph 2.73(9)(b)(ia)

This item amends subparagraph 2.73(9)(b)(ia) by omitting "(Temporary Skill Shortage") and substituting "(Skills in Demand)".

The insertion of this reference to the Subclass 482 (Skills in Demand) visa in subparagraph 2.73(9)(b)(ia) has the effect of requiring a person making a nomination to an occupation for the Subclass 482 (Skills in Demand) visa in the Labour Agreement stream to provide, in the nomination, the name of the occupation and the corresponding 6-digit code (if any) as they are specified in the work agreement or proposed work agreement.

This requirement applies if the person making the nomination for an occupation to the Subclass 482 (Skills in Demand) visa in the Labour Agreement stream is a party to a work agreement or negotiations for a work agreement, which authorises the recruitment, employment, or engagement of services who is intended to be employed or engaged as a holder of a Subclass 482 (Skills in Demand) visa.

Item [52] – Subregulation 2.73(10)

This item repeals and substitutes subregulation 2.73(10) of the Migration Regulations.

Paragraph 2.73(9)(d) provides that the person who is nominating a proposed occupation must provide the proposed period of stay for a visa granted on the basis of the nomination, in accordance with subregulations (10) and (11), as information as part of the nomination.

Previously, subregulation 2.73(10) provided that, for the purposes of paragraph 2.73(9)(d):

- if the occupation is a short-term skilled occupation specified in the instrument made under 2.72(9) in force at the time the nomination was made, and it would not be inconsistent with any international trade obligation of Australia to require the period of stay for a Subclass 482 (Temporary Skill Shortage) visa granted on the basis of the nomination to be no more than 2 years – the proposed period of stay may be 1 or 2 years;

- otherwise – the proposed period of stay may be 1, 2, 3 or 4 years.

New subregulation 2.73(10) provides that, for the purposes of paragraph 2.73(9)(d), the proposed period of stay may be 1, 2, 3, or 4 years provided that the period of stay is not inconsistent with any international trade obligations of Australia.

Item [53] – Subregulation 2.73(14) (heading)

This item amends the heading to subregulation 2.73(14) by omitting "*Short-term stream and Medium-term stream"* and substitute "*Core Skills stream"*.

This is a consequential amendment that reflects the fact that the subregulation 2.73(14) has been revised to provide for additional requirements in relation to a nomination of an occupation for a Subclass 482 (Skills in Demand) visa in the Core Skills stream, as discussed further in item [54].

Item [54] – Subregulation 2.73(14)

This item amends subregulation 2.73(14) by omitting "(Temporary Skill Shortage) visa in the Short-term stream or Medium-term" and substituting "(Skills in Demand) visa in the Core Skills".

The item revises subregulation 2.73(14) to provide for the additional requirements that must be provided in relation to an occupation nominated for a Subclass 482 (Skills in Demand) visa in the Core Skills stream.

The effect of this item is that a person nominating an occupation for a Subclass 482 (Skills in Demand) visa in the Core Skills stream will need to certify, as part of that nomination, in writing, that:

- the tasks of the position include a significant majority of the tasks specified for the occupation in ANZSCO (or the instrument made under 2.72(9) in force at the time of the nomination, if there is no ANZSCO code) (paragraph 2.73(14)(a)); and

- the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in ANZSCO (or the instrument made under 2.72(9) in force at the time of the nomination, if there is no ANZSCO code) (paragraph 2.73(14)(b)); and

- unless the occupation is an occupation specified by the Minister in an instrument made under 2.72(13), that the occupation is a position in (paragraph 2.73(14)(c)):
    - if the person is an overseas business sponsor etc — the person's business; or
    - in any other case - the person's business or a business of an associated entity of the person.

Item [55] – After subregulation 2.73(14)

This item inserts new subregulation 2.73(14A) into the Migration Regulations.

New subregulation 2.73(14A) provides for the additional requirements that must be provided in relation to an occupation nominated for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream .

The effect of this item is that a person nominating an occupation for a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream will need to certify, as part of that nomination, in writing, that:

- the tasks of the position include a significant majority of the tasks specified for the occupation in ANZSCO (paragraph 2.73(14A)(a)); and
- the qualifications and experience of the nominee are commensurate with the qualifications and experience specified for the occupation in ANZSCO (paragraph 2.73(14A)(b)); and
- unless the occupation is an occupation specified by the Minister in an instrument made under 2.72(13), that the occupation is a position in (paragraph 2.73(14A)(c)):
    - if the person is an overseas business sponsor etc — the person's business; or
    - in any other case - the person's business or a business of an associated entity of the person.

Item [56] – Paragraph 2.73(15)(aa)

This item amends paragraph 2.73(15)(aa) of the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting "(Skills in Demand)".

This change reflects the introduction of the Subclass 482 (Skills in Demand) visa, and recognises that it retains the Labour Agreement stream from the Subclass 482 (Temporary Skill Shortage) visa. The additional requirements in relation to the Labour Agreement Stream that were previously set out in subregulation 2.73(15) remain otherwise unaltered.

Item [57] – Regulation 2.73AA (heading)

This item amends the heading of regulation 2.73AA of the Migration Regulations by inserting ", **Subclass 482 (Skills in Demand) visa**" after "**(Skilled)) visa**".

The revision to the heading of regulation 2.73AA reflects the introduction of the Subclass 482 (Skills in Demand) visa.

Item [58] – Paragraph 2.73AA(3)(a)

This item amends paragraph 2.73AA(3)(a) of the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa in the Labour Agreement stream" after "stream".

This change reflects the introduction of the Subclass 482 (Skills in Demand) visa, and recognises that it retains the Labour Agreement stream from the Subclass 482 (Temporary Skill Shortage) visa. This updated reference, when taken alongside the changes made by item [59], ensure that subregulation 2.73AA(3) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The combined effects of these two items are detailed below in item [59].

Item [59] – Subparagraphs 2.73AA(3)(c)(i) and (ii)

This item amends subparagraphs 2.73AA(3)(c)(i) and (ii) of the Migration Regulations by inserting a reference to ", Subclass 482 (Skills in Demand) visas" after "Subclass 457 (Temporary Work (Skilled)) visas.

This item works together with item [58] to ensure that subregulation 2.73AA(3) reflects the implementation of the Subclass 482 (Skills in Demand) visa. The effect of these two items is to enable the Minister to refund a nomination fee or nomination training contribution charge under the following conditions:

- the nomination is of an occupation for a Subclass 482 (Skills in Demand) visa in the Labour Agreement stream (paragraph 2.73AA(3)(a)); and
- the person is a party to a work agreement (paragraph 2.73AA(3)(b)); and
- the person withdraws the nomination before a decision is made under section 140GB of the Migration Act because either (paragraph 2.73AA(3)(c)):
    - the person has listed in the nomination that is not specified in the work agreement as an occupation that the person may nominate in relation to the Subclass 457 (Temporary Work (Skilled)), Subclass 482 (Temporary Skill Shortage), and Subclass 482 (Skills in Demand) visas;
    - the number of nominations made by the person and approved by the Minister under section 140GB of the Act is equal to or greater than the number of approved nominations permitted under the work agreement for the year etc.

Item [60] – Paragraph 2.73AA(3B)(a)

This item amends paragraph 2.73AA(3B)(a) in the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream" after "Medium-term stream".

This change ensures that paragraph 2.73AA(3B)(a) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the Specialist Skills stream and Core Skills stream. The effect of this item is to enable the Minister to refund a nominee fee or nomination training charge if:

- the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, or a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream (paragraph 2.73AA(3B)(a)); and

- at the time the person made the nomination, the person had been applied to be approved as a standard business sponsor (paragraph 2.73AA(3B)(b)); and

- the person withdraws the nomination before a decision is made under section 140GB of the Act because the person has withdrawn the application to be approved as a standard business sponsor, or approval has been refused by the Minister (paragraph 2.73AA(3C)(b)).

Item [61] – Paragraph 2.73AA(3C)(a)

This item amends paragraph 2.73AA(3C)(a) in the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa in the Labour Agreement stream" after "stream".

The change ensures that paragraph 2.73AA(3C)(a) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa, which retains the Labour Agreement stream from the Subclass 482 (Temporary Skill Shortage) visa. The effect of this item is to enable the Minister to refund a nominee fee or nomination training charge fee if:

- the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream or a Subclass 482 (Skills in Demand) visa in the Labour Agreement stream (paragraph 2.73AA(3C)(a)); and

- the person withdraws the nomination before a work agreement is entered (paragraph 2.73AA(3C)(b)).

Item [62] – Paragraph 2.73(3D)(a) and (3E)(a)

This item amends paragraphs 2.73(3D)(a) and 2.73(3E)(a) in the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa after "visa".

This change ensures that subregulations (3D) and (3E) are revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The effect of this item is to enable the Minister to refund a nomination fee or nomination training charge fee if:

- an application for a Subclass 482 (Temporary Skill Shortage) visa or Subclass 482 (Skills in Demand) visa made on the basis of the nomination is finally determined, and grant is refused under section 501, 501A or 501B of the Act, or because the visa applicant did not satisfy PIC 4001, 4002, 4003, 4003B, 4007 or 4020 (subregulation 2.73(3D)); or

- a Subclass 482 (Temporary Skill Shortage) visa or Subclass 482 (Skills in Demand) visa is granted on the basis of the nomination, and the visa holder fails to commence employment in the position associated with the nominated occupation (subregulation 2.73(3E)).

Item [63] – Regulation 2.75 (heading)

This item amends the heading to regulation 2.75 of the Migration Regulations by inserting "**, Subclass 482 (Skills in Demand) visa**" after "**(Skilled)) visa**".

The effect of this change is to revise the heading of regulation 2.75 to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

Item [64] – After paragraph 2.75(1)(a)

This item inserts new paragraph (ab) after paragraph 2.75(1)(b) of the Migration Regulations.

Regulation 2.75 sets out the period of approval of nomination for the classes of nominees listed in subregulation 2.75(1). Subregulation 2.75(1) previously provided that this regulation applies in relation to a nomination by a person of an occupation in which any of the following (the nominee) is identified as the person who will work in the occupation:

- a holder of a Subclass 457 (Temporary Work (Skilled)) visa;
- a holder of a Subclass 482 (Temporary Skill Shortage) visa;
- an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

This item inserts new paragraph 2.75(1)(ab) into the Migration Regulations to clarify the scope of regulation 2.75 following the implementation of the Subclass 482 (Skills in Demand) visa. The insertion of paragraph 2.75(1)(ab) expands the scope of regulation 2.75 to apply to a nominee who, at the time that the nomination is made, is an existing holder of a Subclass 482 (Skills in Demand) visa. This is relevant to holders of a Subclass 482 (Skills in Demand) visa who require a new nomination because they seek to change their employer.

Regulation 2.75 is also applicable to an applicant or a proposed applicant for the Subclass 482 (Skills in Demand) visa, as detailed in relation to item [65].

Item [65] – Paragraph 2.75(1)(c)

This item amends paragraph 2.75(1)(c) to the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting "(Skills in Demand)".

Currently paragraph 2.75(1)(c), in effect, ensures that regulation 2.75 applies to an applicant or a proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.

This item updates the reference in paragraph 2.75(1)(c) to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the closure of the Subclass 482 (Temporary Skill Shortage) visa to any new applications upon the commencement day.

This updated reference, when combined with the insertion of new paragraph 2.75(1)(ab) made by item [64], makes it clear that regulation 2.75 applies in relation to a nomination by a person of an occupation in which any of the following (the nominee) is identified as the person who will work in the occupation:

- a holder of a Subclass 457 (Temporary Work (Skilled)) visa (paragraph 2.75(1)(a));
- a holder of a Subclass 482 (Skills in Demand) visa (paragraph 2.75(1)(ab));
- a holder of a Subclass 482 (Temporary Skill Shortage) visa (paragraph 2.75(1)(b));
- an applicant or a proposed applicant for a Subclass 482 (Skills in Demand) visa (paragraph 2.75(1)(c)).

Item [66] – Paragraph 2.75(2)(c)

This item amends paragraph 2.75(2)(c) of the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa" after "visa".

Currently subregulation 2.75(2) provides for a range of scenarios in which the approval of a nomination s ceases. The subregulation provides that an approval of a nomination ceases to be in effect on the earliest of these dates:

- the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the approved work sponsor (paragraph 2.75(2)(a));
- 12 months after the day on which the nomination is approved unless, at that time, there is a visa application made by the nominee on the basis of the nomination that has not been finally determined (paragraph 2.75(2)(b));
- if a visa application made by the nominee on the basis of the nomination is finally determined or withdrawn after 12 months after the day on which the nomination is approved – the day on which the visa application is finally determined or withdrawn (paragraph 2.75(2)(ba));
- the day on which the nominee is granted a Subclass 482 (Temporary Skill Shortage) visa (paragraph 2.75(2)(c));
- if the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or the Medium-term stream – the nomination end day, unless on the nomination end day (paragraph 2.75(2)(d)):
    - the person is a standard business sponsor; or
    - there is an application for approval as a standard business sponsor made by the person before the sponsorship end day in relation to which a decision has not been made under subsection 140E(1) of the Act;
- the day on which an application mentioned in subparagraph (d)(ii) is refused (paragraph 2.75(2)(e));
- if the nomination is of an occupation or a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, and the person's approval as a standard business sponsor is cancelled under subsection 140M(1) of the Act – the day on which the person's approval as a standard business sponsor is cancelled (paragraph 2.75(2)(f));

- if the approval of the nomination is given to a party to a work agreement (other than the Minister) and the nomination is of an occupation for a Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream – the day on which the work agreement ceases (paragraph 2.75(2)(g)).

This item updates the reference in paragraph 2.75(2)(c) to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the closure of the Subclass 482 (Temporary Skill Shortage) visa to any new applications upon the commencement date. This ensures that a nomination to a Subclass 482 (Skills in Demand) visa ceases on the day on which the nominee is granted the visa itself, unless the nomination has already ceased under one of the other scenarios listed in subregulation 2.75(2).

Item [67] – Paragraph 2.75(2)(d)

This item amends paragraph 2.75(2)(d) by omitting "(Temporary Skill Shortage) visa in the Short-term stream or the Medium-term stream" and substituting a reference to the "(Skills in Demand) visa in the Specialist Skills stream of the Core Skills stream".

This amendment to paragraph 2.75(2)(d) is necessary to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and its Specialist Skills stream and Core Skills stream. This has the effect that an approval of a nomination for an occupation in relation to either of these streams ceases on the nomination end day, unless:

- the nomination has already ceased under one of the other scenarios listed in subregulation 2.72(2); or

- the person making the nomination is a standard business sponsor (subparagraph 2.75(2)(d)(i)); or

- there is an application for approval as a standard business sponsor made by the person before the sponsorship end day in relation to which a decision has not been made under subsection 140E(1) of the Act (subparagraph 2.75(2)(d)(ii)).

The meaning of ***nomination end day***, in relation to a nomination under subsection 140GB(1) of the Act, is set out in regulation 1.03 of the Migration Regulations to refer to the day 3 months after the sponsorship end day in relation to the nomination.

Item [68] – Subparagraph 2.75(2)(f)(i)

This item amends subparagraph 2.75(2)(f)(i) of the Migration Regulations by omitting "(Temporary Skill Shortage) visa in the Short-term stream or the Medium-term stream" and substitute a reference to the "(Skills in Demand) visa in the Specialist Skills stream or the Core Skills stream".

The effect of this amendment is to ensure that, unless the nomination has already ceased under one of the other scenarios listed in subregulation 2.72(2), that an approval of a nomination for an occupation for either the Specialist Skills stream or Core Skills stream of the Subclass 482 (Skills in Demand) visa ceases on the day on which the person making the nomination has their approval as a standard business sponsor cancelled, provided that the cancellation is made under subsection 140M(1) of the Act.

Item [69] – After paragraph 4.02(1A)(ka)

This item inserts new paragraph 4.02(1A)(kb) into the Migration Regulations.

Subregulation 4.02(1A) of the Migration Regulations prescribes a series of visas for the purposes of paragraph 338(2)(d) of the Migration Act. In essence, a decision (other than a decision covered under subsection 338(4) of made under section 501 of the Act) to refuse to grant a non-citizen a visa is a ***reviewable migration decision*** if it concerns a temporary visa of a kind that is prescribed in subregulation 4.02(1A).

New paragraph 4.02(1A)(kb) prescribes the Subclass 482 (Skills in Demand) visa as a visa for the purposes of paragraph 338(2)(d) of the Migration Act. This means that the Minister's refusal to grant a Subclass 482 (Skills in Demand) visa is a ***reviewable migration decision*** for under Part 5 of the Migration Act, provided that all the other applicable criteria in subsection 338(2) of the Act can be satisfied.

The effect of this amendment is to accord an applicant who has been refused a grant of the Subclass 482 (Skills in Demand) visa with the right to apply to the Administrative Review Tribunal (ART) for a review of this decision under subsection 347(1) of the Migration Act.

Item [70] – After paragraph 5.19M(fa)

This item inserts new paragraph 5.19M(fb) into the Migration Regulations.

This is a consequential amendment of regulation 5.19M of the Migration Regulations, which currently prescribes a series of visas for the definition of ***sponsored visa*** in section 245AQ of the Act. The effect of new paragraph 5.19M(fb) is to prescribe a Subclass 482 (Skills in Demand) visa as a ***sponsored visa***.

Item [71] – After paragraph 5.35AB(1)(j)

This item inserts new paragraph 5.35AB(1)(j) into the Migration Regulations.

This is a consequential amendment to regulation 5.35AB of the Migration Regulations, which prescribes a series of visas for the purposes of subsection 506B(1) of the Migration Act. The effect of new paragraph 5.35AB(1)(j) is to enable the Secretary to request any of the following persons to provide the tax file number of a person who is an applicant for, or holder or former holder of, a Subclass 482 (Skills in Demand) visa:

- the applicant, holder or former holder;
- an approved sponsor of the applicant, holder or former holder;
- a former approved sponsor of the applicant, holder or former holder;
- a person who has nominated the applicant or holder in an approved nomination that has not ceased under the regulations;
- a person who nominated the holder or former holder in an approved nomination that has ceased under the regulations.

Item [72] – After paragraph 5.42(1)(a)

This item inserts new paragraph 5.42(1)(ab) into the Migration Regulations.

This is a consequential amendment to subregulation 5.42(1) of the Migration Regulations, which prescribes several classes of persons for the purposes of subsection 140ZM(1) of the Migration Act. Section 140ZM of the Migration Act imposes liability onto a person to pay a nomination training contribution charge (also known as the "Skilling Australians Funds (SAF) Levy") if the nomination is a nomination of a kind prescribed by the Regulations.

The effect of new paragraph 5.42(1)(ab) is to require the payment of the SAF Levy for a person making a nomination of a proposed occupation in relation to a person, who at the time of the nomination, is an existing holder of a Subclass 482 (Skills in Demand) visa. One effect of item [100] (at paragraph 5.42(1)(c)) is to extend this liability to a person making a nomination of a proposed occupation in relation to a person who, at the time of the nomination, is an applicant or proposed applicant for a Subclass 482 (Skills in Demand) visa.

Item [73] – After Division 5.7A of Part 5

This item inserts new Division 5.7B into the Migration Regulations. This Division operates to provide for the indexation of indexable amounts for the new Specialist Skills stream and Core Skills stream of the Subclass 482 (Skills in Demand) visa. The settings for the indexation are set out in new regulation 5.42A.

Subregulation 5.42A(1) provides the formula to work out the indexable amount.

Subregulation 5.42A(2) provides that the amount worked out in proposed subregulation 5.24A(1) is to be rounded to the nearest whole dollar.

Indexation factor

Subregulation 5.42A(3) provides the formula to be used to work out the indexation factor.

Subregulation 5.42A(4) provides that the amount worked out under proposed subsection 5.42A(3) is to be rounded to the nearest whole dollar.

Publication of indexable amounts

Subregulation 5.42A(5) provides that the indexable amount must be published on the Department's website as soon as practicable after the date of indexation. The provision also clarifies that a failure to publish the indexation amount does not invalidate the indexation. It is consistent with the Department's operations to ensure the indexation amount is published on the Department's website.

Subregulation 5.42A(6) provides a number of definitions for regulation 5.42A, including:

- ***AWOTE amount*** is defined to mean the estimate of the full- time adult average weekly ordinary time earnings for persons in Australia for the middle month of the quarter published by the Australian Statistician in relation to that month;

- ***base quarter*** is defined to mean the last December quarter before the reference quarter;

- ***December quarter*** is defined to mean a period of 3 months starting on 1 October;

- ***indexation day*** is defined to mean the first 1 July to occur after the commencement of this section and each subsequent 1 July;

- ***reference quarter*** is defined to mean the December quarter immediately before the indexation day.

New regulation 5.42A operates to provide that indexation will occur annually on 1 July of each year. This indexation will reflect changes in the figure for Average Weekly Ordinary Time Earnings and will maintain the real value of the thresholds.

The proposed income thresholds for the Specialist Skills and Core Skills stream have initially been set at $135,000 and $73,150 respectively (see item [1]) The formula provided in the proposed amendments allows the indexation to maintain the real value of the income thresholds and their relative position in the Australian wage stack, while also providing employers with enough notice of the annual increase.

The Department updates its website to provide clear and precise messaging as to the actual threshold amount each year, to ensure migration agents, employers and employees are aware of the various income thresholds.

The Government's intention in establishing the indexation formula in the Migration Regulations is to minimise the opportunity for exploitation of temporary skilled migrant workers and to allow stronger enforcement of income thresholds to ensure compliance of approved sponsors.

Item [74] – After subparagraph 1137(4M)(a)(ii) of Schedule 1

This item inserts new subparagraph 1137(4M)(a)(iia) into Schedule 1 to the Migration Regulations.

Subitems 1137(4J) to (4M) of Schedule 1 to the Migration Regulations set out a series of criteria that for an applicant for a Subclass 189 (Skilled – Independent) visa in the Hong Kong stream. The effect of new subparagraph 1137(4M)(a)(iia) is that a primary Hong Kong applicant must hold a Hong Kong passport or a British National (Overseas) passport, and have held a Subclass 482 (Skills in Demand) visa for at least 4 years.

Item [75] – After subparagraph 1139(3A)(a)(ii) of Schedule 1

This item inserts new subparagraph 1139(3A)(a)(iia) into Schedule 1 to the Migration Regulations.

Paragraphs 1139(3)(bb), (c) and (ca) of Schedule 1 to the Migration Regulations set out criteria that must be met by a primary applicant for a Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Hong Kong (Regional) stream. The effect of new subparagraph 1139(3A)(a)(iia) is that a primary Hong Kong applicant must hold a Hong Kong passport or a British National (Overseas) passport, and have held a Subclass 482 (Skills in Demand) visa for at least 3 years.

Item [76] – Item 1240 of Schedule 1 (heading)

This item amends the heading to Item 1240 of Schedule 1 to the Migration Regulations by omitting "**Temporary Skill Shortage**" and substituting "**Skills in Demand**".

This amendment re-names the Temporary Skill Shortage (Class GK) visa class to the Skills in Demand (Class GK) visa class. The Subclass 482 (Skills in Demand) is a subclass of the Skills in Demand (Class GK) visa class.

Item [77] – Paragraph 1240(2)(a) of Schedule 1

This item repeals and substitutes paragraph 1240(2)(a) of Schedule 1 to the Migration Regulations.

The new paragraph provides the amount for the first instalment of the visa application charge (VAC) payable for an application to a visa subclass under the Temporary Skill Shortage (Class GK) visa class. These changes set out the settings for the first instalment of the VAC for an applicant for any stream of the new Subclass 482 (Skills in Demand) visa, which is a subclass of the Skills in Demand (Class GK) visa class.

These changes provides that this amount is nil for an applicant in a class of persons specified in a legislative instrument made under subregulation 2.07(5) for the purposes of new subparagraph 1240(2)(a)(i) of Schedule 1 to the Migration Regulations. For any other applicant, this amount is:

- for the base application charge – $3,115;
- for the additional application charge for an application who is at least 18 – $3,115;
- for the additional application charge for an applicant who is less than 18 – $780.

These settings are aligned with the amounts that currently apply to applicants for the Medium-term stream of the Subclass 482 (Temporary Skill Shortage) visa.

Item [78] – Paragraph 1240(3)(h) of Schedule 1

This item amends paragraph 1240(3)(h) of Schedule 1 to the Migration Regulations by omitting "482.212(3) or (4)" and substituting "482.221(2) or (3) or 482.231(2) or (3)".

This is a consequential amendment that reflects the repeal of subclauses 482.212(3) and (4) of Schedule 2 to the Migration Regulations, as provided for by item [87], and the replacement of these provisions through the substitution of new clauses 482.221(2) or (3) and 482.231(2) or (3) in item [88].

The effect of this item is to ensure that paragraph 1240(3)(h) of Schedule 1 to the Migration Regulations expressly provides that paragraph 1240(3)(g) does not affect the criteria provided for under subregulations 482.221(2) or (3) (for the Specialist Skills stream), or 482.231(2) or (3) (for the Core Skills Stream).

Item [79] – Paragraph 010.611(3D)(a) of Schedule 2

This item amends paragraph 010.611(3D)(a) of Schedule 2 to the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa" after "visa".

This item operates together with item [80] to ensure that subregulation 010.611(3D) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

Item [80] – Paragraph 010.611(3D)(b) of Schedule 2

This item amends paragraph 010.611(3D)(b) of Schedule 2 to the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

The combined effect of items [79] and [80] is to ensure that subregulation 010.611(3D) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. Following these amendments, a person who is granted a Bridging Visa A (BVA) on the basis of making a valid application for a Subclass 482 (Skills in Demand) visa, who held a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or Subclass 482 (Temporary Skill Shortage) visa at the time of application (the ***first visa***), will have the following visa conditions attached to their BVA:

- if the first visa was subject to condition 8107 – condition 8107;
- if the first visa was subject to condition 8501 – condition 8501;
- if the first visa was subject to condition 8607 – condition 8607.

Item [81] – Paragraph 020.611(4B)(a) of Schedule 2

This item amends paragraph 020.611(4B)(a) of Schedule 2 to the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa" after "visa".

This item operates together with item [81] to ensure that subregulation 020.611(4B) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

Item [82] – Paragraph 020.611(4B)(b) of Schedule 2

This item amends paragraph 020.611(4B)(b) of Schedule 2 to the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

The combined effect of items [81] and [82] is to ensure that subregulation 020.611(4B) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. Following these amendments, a person who is granted a Bridging Visa B (BVB) on the basis of making a valid application for a Subclass 482 (Skills in Demand) visa, who held a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or Subclass 482 (Temporary Skill Shortage) visa at the time of application (the ***first visa***), will have the following visa conditions attached to their BVA:

- if the first visa was subject to condition 8107 – condition 8107;
- if the first visa was subject to condition 8501 – condition 8501;
- if the first visa was subject to condition 8607 – condition 8607.

Item [83] – Paragraph 189.241(a) of Schedule 2

This item amends paragraph 189.241(a) of Schedule 2 to the Migration Regulations by inserting ", Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

The effect of this amendment is to require a primary applicant for the Subclass 189 (Skilled Independent) visa in the Hong Kong stream, who has held a Subclass 482 (Skills in Demand) visa, to have complied substantially with the conditions to which the Skills in Demand visa, and any subsequent bridging visa that they held, was subject.

Item [84] – Paragraph 191.231(1)(a) of Schedule 2

This item amends paragraph 191.231(1)(a) of Schedule 2 to the Migration Regulations by inserting ", Subclass 482 (Skills in Demand) visa" after "Shortage) visa".

The effect of this amendment is to require a primary applicant for the Subclass 191 (Permanent Residence (Skilled Regional)) visa in the Hong Kong stream, who has held a Subclass 482 (Skills in Demand) visa, to have complied substantially with the conditions to which the Skills in Demand visa, and any subsequent bridging visa that they held, was subject.

Item [85] – Subparagraph 408.224(b)(ii) of Schedule 2

This item amends subparagraph 408.224(b)(ii) of Schedule 2 to the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

Clause 408.224 of Schedule 2 to the Migration Regulations sets out primary criteria for an applicant that seeks to enter or remain in Australia to provide services as a domestic worker, who has been invited by certain senior executives at the state and national level for a foreign government agency or foreign organisation.

This amendment allows a non-citizen to come to Australia under the Subclass 408 (Temporary Activity) visa, to be employed to undertake full-time domestic duties in the private household of a senior executive for a foreign organisation that is lawfully operating in Australia, who is holding a Subclass 482 (Skills in Demand) visa.

Item [86] – Part 482 of Schedule 2 (heading)

This item amends the heading to Part 482 of Schedule 2 to the Migration Regulations by omitting "**Temporary Skill Shortage"** and substituting a reference to "**Skills in Demand"**.

This amendment reflects the replacement of the Subclass 482 (Temporary Skill Shortage) visa by the Subclass 482 (Skills in Demand) visa.

Item [87] – Subclauses 482.212(3) and (4) of Schedule 2

This item repeals subclauses 482.212(3) and (4) of Schedule 2 to the Migration Regulations.

Subclauses 482.212(3) and (4) are both currently common criteria under clause 482.21, and apply to applicants who are seeking to satisfy the primary criteria for any stream of the Subclass 482 (Temporary Skill Shortage) visa:

- subclause 482.212(3) requires the applicant to have the skills, qualifications, and employment background that the Minister considers necessary to perform the tasks of the nominated occupation;

- subclause 482.212(4) provides that, if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the

nominated occupation, the applicant demonstrates that he or she has those skills in the manner specified by the Minister.

Despite the repeal of these subclauses, these criteria are retained for the Subclass 482 (Skills in Demand) visa in the Specialist Skills stream and Core Skills stream (see item [87]).

Item [88] – Subdivisions 482.22 and 482.23

This item repeals and substitutes subdivisions 482.22 and 482.23 in Schedule 2 to the Migration Regulations.

Current subdivisions 482.22 and 482.23 set out the primary criteria that an applicant for the Subclass 482 (Temporary Skill Shortage) visa in the Short-term and Medium-term streams would be assessed against. The substituted provisions set out the primary criteria that apply to an applicant for the Subclass 482 (Skills in Demand) visa in the Specialist Skills and Core Skills streams.

Subdivision 482.22 – Criteria for Specialist Skills Stream

Clause 482.221 – Relevant work experience requirements

Item [88] has the effect of substituting clause 482.221 in Schedule 2 to the Migration Regulations. The previous clause provided for the relevant work experience criteria for applicants for the Short-term Stream of the Subclass 482 (Temporary Skill Shortage) visa, requiring that the applicant has worked in the nominated occupation or a related field for at least 2 years.

Due to the fact that the Subclass 482 (Temporary Skill Shortage) visa is being replaced by the Subclass 482 (Skills in Demand) visa, the effect of these amendments is to require an applicant for the Specialist Skills stream of the Subclass 482 (Skills in Demand) visa to have carried out a total period of at least one year of work in the nominated occupation or related field, or an equivalent period on a part-time or casual basis, in the five years immediately preceding the date of the visa application.

These changes facilitate faster pathways towards permanent residence and citizenship for applicants with relevant qualifications and work experience, like holders of a Subclass 485 (Temporary Graduate) visa who wish to extend their stay in Australia. These changes also provide flexibility for applicants with part-time or casual work arrangements, and enables applicants to rely on multiple periods of work, which does not have to be carried out continuously.

Subclauses 482.221(2) and (3) – Skills, qualifications, and employment background requirements

Item [88] also has the effect of retaining the requirements in relation to the applicant's skills, qualifications, and employment background that were previously set out in subclauses 482.212(2) and (3) of Schedule 2 to the Migration Regulations. The effect is that an applicant for the Specialist Skills stream in the Subclass 482 (Skills in Demand) visa must, under and (3) of the Migration Regulations:

- have the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation (subclause 482.221(2)); and

- if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that he or she has those skills in the manner specified by the Minister (subclause 482.221(3)).

Clause 482.222 – English language requirements

Item [88] also has the effect of retaining the English language requirements for primary applicants for the Medium-term stream of the Subclass 482 (Temporary Skill Shortage) visa that are set out in previous clause 482.232 of Schedule 2 to the Migration Regulations. The same criterion applies for a primary applicant for the Subclass 482 (Skills in Demand) visa in the Specialist Skills stream under clause 482.222.

This clause has the effect of requiring such an applicant to meet the English language requirements that are specified in a legislative instrument made for the purposes of subclause 482.222(1), and, if required, to demonstrate English language proficiency in a manner specified by the Minister.

Clause 482.223 – Must work in the nominated occupation for the approved sponsor

Item [88] also has the effect of retaining the nominated occupation requirements for primary applicants for the Short-term stream of the Subclass 482 (Temporary Skill Shortage) visa that are set out in previous clause 482.224 of the Schedule 2 to the Migration Regulations. The same criterion applies for a primary applicant for the Subclass 482 (Skills in Demand) visa in the Specialist Skills stream under clause 482.223.

This clause has the effect of requiring that unless the nominated occupation is an occupation specified by the Minister in an instrument made under subregulation 2.72(13), that the visa applicant is employed to work in the nominated occupation, and that they must be employed to work in a position that is in:

- if the person who nominated the nominated occupation was an overseas business sponsor at the time the nomination was approved – the person's business (subparagraph 482.223(b)(i)); or

- if the person who nominated the nominated occupation was not an overseas business sponsor at the time the nomination was approved – the person's business or an associated entity of the person (subparagraph 482.223(b)(ii)).

Subdivision 482.23 – Criteria for Core Skills Stream

Clause 482.231 – Relevant work experience requirements

Item [88] has the effect of substituting clause 482.231 in Schedule 2 to the Migration Regulations. The previous clause provided for the relevant work experience criteria for applicants for the Medium-term Stream of the Subclass 482 (Temporary Skill Shortage) visa, requiring that the applicant has worked in the nominated occupation or a related field for at least 2 years.

Due to the fact that the Subclass 482 (Temporary Skill Shortage) visa is being replaced by the Subclass 482 (Skills in Demand) visa, the effect of these amendments is to require an applicant for the Core Skills stream of the Subclass 482 (Skills in Demand) visa to have carried out a total period of at least one year of work in the nominated occupation or related field, or an equivalent period on a part-time or casual basis, in the five years immediately preceding the date of the visa application.

These changes facilitate faster pathways towards permanent residence and citizenship for applicants with relevant qualifications and work experience, like holders of a Subclass 485 (Temporary Graduate) visa who wish to extend their stay in Australia. These changes also provide flexibility for applicants with part-time or casual work arrangements, and enables applicants to rely on multiple periods of work, which does not have to be carried out continuously.

Subclauses 482.231(2) and (3) – Skills, qualifications, and employment background requirements

Item [88] also has the effect of retaining the requirements about the applicant's skills, qualifications, and employment background that were previously set out in subclauses 482.212(2) and (3) of Schedule 2 to the Migration Regulations. The effect is that an applicant for the Specialist Skills stream in the Subclass 482 (Skills in Demand) visa must, under new subclauses 482.231(2) and (3) of the Migration Regulations:

- have the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation (subclause 482.231(2)); and

- if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that he or she has those skills in the manner specified by the Minister (subclause 482.231(3)).

Item [89] – Paragraph 482.242(a) of Schedule 2

This item repeals and substitutes paragraph 482.242(a) of Schedule 2 to the Migration Regulations. The previous paragraph provided for the relevant work experience requirements for an applicant for the Subclass 482 (Temporary Skill Shortage) visa in the Labour Agreement stream.

Due to the fact that the Subclass 482 (Temporary Skill Shortage) visa is being replaced by the Subclass 482 (Skills in Demand) visa, the effect of these amendments is to require an applicant for the Labour Agreement stream of the Subclass 482 (Skills in Demand) visa to have carried out a total period of at least one year of work in the nominated occupation or related field, or an equivalent period on a part-time or casual basis, in the five years immediately preceding the date of the visa application.

These changes facilitate faster pathways towards permanent residence and citizenship for applicants with relevant qualifications and work experience, like holders of a Subclass 485 (Temporary Graduate) visa who wish to extend their stay in Australia. These changes also provide flexibility for applicants with part-time or casual work arrangements, and enables

applicants to rely on multiple periods of work, which does not have to be carried out continuously.

This item does not affect current paragraph 482.242(b) of Schedule 2 to the Migration Regulations. The effect is that that the relevant work experience requirements can also be met if the Minister considers it to be reasonable in the circumstances to disregard paragraph (a).

Item [90] – After clause 482.242

This item inserts new clause 482.242A into Schedule 2 to the Migration Regulations.

This new clause has the effect of requiring an applicant for the Labour Agreement stream in the Subclass 482 (Skills in Demand) visa must:

- have the skills, qualifications and employment background that the Minister considers necessary to perform the tasks of the nominated occupation (subclause 482.242A(1)); and

- if the Minister requires the applicant to demonstrate that he or she has the skills that are necessary to perform the tasks of the nominated occupation, the applicant demonstrates that he or she has those skills in the manner specified by the Minister (subclause 482.242A(2)).

Item [91] – Subclause 482.312(1) of Schedule 2

This item amends subclause 482.312(1) of Schedule 2 to the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa".

The effect of this amendment is to update subclause 482.312(1) to enable a secondary applicant for the Subclass 482 (Skills in Demand) visa to meet the criterion, if they are a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 482 (Skills in Demand) visa.

Item [92] – Subclause 482.511(1) of Schedule 2 (table item 4, column 1, after subparagraph (a)(i))

This item inserts new subparagraph (ia) into the cell in column 1 of item 4 in the table under subclause 482.511(1) of Schedule 2 to the Migration Regulations.

The table under subclause 482.511(1) of Schedule 2 to the Migration Regulations sets out the period in which a Subclass 482 (Skills in Demand) visa ends. The effect of this item is to update the specified cell to reflect the introduction of the Subclass 482 (Skills in Demand) visa.

The effect is that a secondary holder of the Subclass 482 (Skills in Demand) visa whose circumstances are described in this cell would have their visa cease on the earlier of:

- the end of the period the primary applicant is permitted to remain in Australia under the Subclass 482 (Skills in Demand) visa; or

- the end of the day before the secondary applicant's 23rd birthday.

Item [93] – Subclause 482.511(1) of Schedule 2 (table item 5, column 1, after subparagraph (a)(i))

This item inserts new subparagraph (ia) after current subparagraph (a)(i) into the cell in column 1 of item 5 in the table under subclause 482.511(1) of Schedule 2 to the Migration Regulations.

This item operates together with item [94] to update the cell in column 1 of item 5 in the table to reflect the introduction of the Subclass 482 (Skills in Demand) visa. The combined effects of these two items are provided for below in item [92].

Item [94] – Subclause 482.511(1) of Schedule 2 (table item 5, column 1, subparagraph (c)(i))

This item amends current subparagraph (c)(i) into the cell in column 1 of item 5 in the table under subclause 482.511(1) of Schedule 2 to the Migration Regulations by inserting "or a Subclass 482 (Skills in Demand) visa granted on or after 7 December 2024" after "2020".

This item operates together with item [91] to update the specified cell to reflect the introduction of the Subclass 482 (Skills in Demand) visa.

The effect is that a secondary holder of the Subclass 482 (Skills in Demand) visa whose circumstances are described in this cell would have their visa cease on the end of the period that the primary applicant described in the cell is permitted to remain in Australia under the visa.

Item [95] – Paragraph 494.224(4)(a) of Schedule 2

This item amends paragraph 494.224(4)(a) of Schedule 2 to the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "(Skilled)) visa".

The insertion of a reference to the Subclass 482 (Skills in Demand) visa, when taken alongside the changes made by item [96], ensures that paragraph 494.242(a) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa, and the resultant changes made to the Migration Regulations.

Item [96] – Subparagraph 494.224(4)(a)(ii) of Schedule 2

This item amends subparagraph 494.224(4)(a)(ii) of Schedule 2 to the Migration Regulations by omitting "or subclause 482.212(4)" and substituting ", former subclause 482.212(4) or subclause 482.221(3) or subclause 482.231(3)".

The amendments made by this item reflect the fact that the content of former subclause 482.212(4) has been absorbed into new subclause 482.221(3) (for the Specialist Skills stream) and new subclause 482.231(3) (for the Core Skills stream) (discussed in relation to items [87] and [88]).

The other provisions in subclause 494.224(4) of the Migration Regulations have been left intact, meaning that the skills assessment criteria largely remain consistent with the previous

criteria for applicants for the Employer Sponsored stream of the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa.

Item [97] – After paragraph 773.213(4)(b) of Schedule 2

This item inserts new paragraph 773.213(4)(ba) to Schedule 2 of the Migration Regulations.

The Subclass 773 (Border) visa is a temporary visa that is only granted in very limited circumstances to non-citizens who do not hold a visa, or whose visa has been cancelled in immigration clearance. This item is a consequential amendment reflecting the introduction of the Subclass 482 (Skills in Demand) visa, which renders a person eligible for a Subclass 773 (Border) visa if they are one of the following persons and satisfy the other primary criteria set out in Division 773.2 of the Migration Regulations:

- a dependent child of a holder of a Subclass 482 (Skills in Demand) visa, who arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa (sub-subparagraph (1)(d)(i)(D)); or

- a person who immediately before last departing Australia, held a Subclass 482 (Skills in Demand) visa, and departed in circumstances in which it was not reasonably practicable to obtain a visa before departing, and would, if refused immigration clearance, be prevented from reunion with a close relative in Australia (sub-subparagraph (1)(e)(i)(B)).

Item [98] – Subclause 8607(1) of Schedule 8

This item amends subclause 8607(1) of Schedule 8 to the Migration Regulations by omitting "(Temporary Skill Shortage)" and substituting a reference to "(Skills in Demand)".

This amendment to subclause 8607(1) of Schedule 8 to the Migration Regulations has the effect of requiring a holder of a Subclass 482 (Skills in Demand) visa to work only in the occupation (the nominated occupation) nominated by the nomination identified in the application for the most recent Subclass 482 (Skills in Demand) visa that was granted to them.

Subclause 8607(5) of Schedule 8 to the Migration Regulations provides an exemption to this subclause by allowing the holder to cease to work in accordance with subclauses 8607(1) and (2) for a period, but requires that:

- any such period must not exceed 180 consecutive days (paragraph 8607(5)(a)); and

- the total number of days on which the holder does not work in accordance with subclauses (1) and (2) must not exceed 365 during the visa period for the holder's visa (paragraph 8607(5)(b)).

The effect of item [98], in combination with items [99] and [100], is to amend visa condition 8607 to support the worker mobility of a holder of a Subclass 482 (Skills in Demand) visa by providing them with up to 180 consecutive days (365 total days during their full visa period) to find work with a new sponsor (including in a different occupation), apply for another visa, or depart Australia, if their employment relationship with a sponsor ceases.

Item [99] – Paragraph 8607(2)(b) of Schedule 8

This item amends paragraph 8607(2)(b) of Schedule 8 to the Migration Regulations by omitting "(Temporary Skill Shortage) visa granted to the holder in the Short-term stream or Medium-term stream" and substituting a reference to "(Skills in Demand) visa granted to the holder in the Specialist Skills stream or Core Skills stream".

This amendment of paragraph 8607(2)(b) of Schedule 8 has the effect of requiring a holder whose most recently granted visa is a Subclass 482 (Skills in Demand) visa in the Specialist Skills or Core Skills stream to work only in a position in the business of the person who nominated the nominated occupation, if that person was an overseas business sponsor at the time the nomination was approved.

Subclause 8607(5) of Schedule 8 to the Migration Regulations provides an exemption to this subclause by allowing the holder to cease to work in accordance with subclauses 8607(1) and (2) for a period, but requires that:

- any such period must not exceed 180 consecutive days (paragraph 8607(5)(a)); and
- the total number of days on which the holder does not work in accordance with subclauses (1) and (2) must not exceed 365 during the visa period for the holder's visa (paragraph 8607(5)(b)).

The effect of item [99], in combination with items [98] and [100], is to support the worker mobility of a holder of a Subclass 482 (Skills in Demand) visa by providing them with up to 180 consecutive days (365 total days during their full visa period) to find work with a new sponsor (including in a different occupation), apply for another visa, or depart Australia, if their employment relationship with a sponsor ceases.

Item [100] – Paragraph 8607(2)(c) of Schedule 8

This item amends paragraph 8607(2)(c) of Schedule 8 to the Migration Regulations by omitting "(Temporary Skill Shortage) visa granted to the holder in the Short-term stream or Medium-term stream" and substituting a reference to "(Skills in Demand) visa granted to the holder in the Specialist Skills stream or Core Skills stream".

This amendment of paragraph 8607(2)(c) of Schedule 8 to the Migration Regulations has the effect of requiring a holder whose most recently granted visa is a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream to work only in a position in the business of the person or a business of an associated entity of the person, if that person was not an overseas business sponsor at the time the nomination was approved.

Subclause 8607(5) of Schedule 8 to the Migration Regulations provides an exemption to this subclause by allowing the holder to cease to work in accordance with subclauses 8607(1) and (2) for a period, but requires that:

- any such period must not exceed 180 consecutive days (paragraph 8607(5)(a)); and
- the total number of days on which the holder does not work in accordance with subclauses (1) and (2) must not exceed 365 during the visa period for the holder's visa (paragraph 8607(5)(b)).

The effect of item [100], in combination with items [98] and [99], is to support the worker mobility of a holder of a Subclass 482 (Skills in Demand) visa by providing them with up to 180 consecutive days (365 total days during their full visa period) to find work with a new sponsor (including in a different occupation), apply for another visa, or depart Australia, if their employment relationship with a sponsor ceases.

Item [101] – After subparagraph 11(a)(iii) of Part 2 of Schedule 9

This item inserts new subparagraph 11(a)(iiia) into Part 2 of Schedule 9 to the Migration Regulations.

The effect of the new subparagraph is to exempt a holder of a Subclass 482 (Skills in Demand) visa from complying with the immigration clearance procedures (to present certain evidence of identity etc) under section 166 of the Migration Act if they enter Australia to participate in, or to support an ***offshore resources activity***, and if their entry has been reported in writing to Immigration.

This item complements the changes made through items [9] and [10], which, collectively, allow a Subclass 482 (Skills in Demand) visa holder to participate in, or support, an ***offshore resources activity***, and travel directly to the site of the activity without having to enter Australia in a port or on a pre-cleared flight etc.

Item [100] – Amendments of listed provisions – (Temporary Skill Shortage)

This item has the effect of omitting "(Temporary Skill Shortage)" and substituting "(Skills in Demand)" in the following provisions of the Migration Regulations:

- paragraph 2.05(4AA)(f);
- subparagraph 2.05(5A)(b)(vi);
- subregulation 2.06AAB(1) (table item 13A);
- paragraph 2.07AG(1)(f);
- paragraph 2.07AG(2)(f);
- paragraph 2.56(l);
- paragraph 2.72(5)(b) (wherever occurring);
- subparagraph 2.73(9)(b)(ii);
- paragraph 2.73(11)(b);
- paragraph 2.73(15)(b);
- paragraph 2.75(2)(g);
- paragraph 5.42(1)(c);
- subitem 1240(3) of Schedule 1;

- subitem 1240(4) of Schedule 1;
- subclause 482.511(1) of Schedule 2 (table item 3, column 1, subparagraph (a)(ii));
- paragraph 8607(2)(a) of Schedule 8.

These are consequential amendments that reflect the replacement of the Subclass 482 (Temporary Skill Shortage) visa by the Subclass 482 (Skills in Demand) visa.

Part 2—Employer Nomination Scheme amendments

Item [103] – Subparagraph 2.12F(3B)(c)(v)

This item amends subparagraph 2.12F(3B)(c)(v) of the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "Skilled)) visa".

The effect of this amendment is to enable the Minister to refund the amount paid for the first instalment of the visa application charge (VAC) for an application to the Temporary Residence Transition stream of the Subclass 186 (Employer Sponsored Scheme) visa or Subclass 187 (Regional Sponsored Migration Scheme) visa if:

- the visa application relates to a position nominated in a nomination application for approval under regulation 5.19 of the Migration Regulations (paragraph 2.12F(3B)(c)); and

- after the visa application was made, but before the nomination application is decided, the applicant ceased to be employed in the position in respect to which they held a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or a Subclass 482 (Temporary Skill Shortage) visa (paragraph 2.12F(3B)(v)).

Item [104] – Subparagraph 2.12F(3B)(c)(vii)

This item repeals and substitutes subparagraph 2.12F(3B)(c)(vii) of the Migration Regulations.

The effect of this amendment is to enable the Minister to refund the amount paid for the first instalment of the visa application charge (VAC) for an application to the Temporary Residence Transition stream of either the Subclass 186 (Employer Sponsored Scheme) visa or Subclass 187 (Regional Sponsored Migration Scheme) visa if:

- the visa application relates to a position nominated in a nomination application for approval under regulation 5.19 of the Migration Regulations (paragraph 2.12F(3B)(c)); and

- if the nomination application is made on or after 18 March 2018 and before 7 December 2024 and the visa application is in the Temporary Residence Transition stream – the applicant did not, when the nomination application was made, satisfy the requirement in eligibility period requirement in paragraph 5.19(5)(e), or the work experience requirement paragraph 5.19(5)(f) or (g);

- if the nomination application is made on or after 7 December 2024 and the visa application is for a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream – the applicant did not, when the nomination application is made, satisfy the eligibility period requirements in new paragraph 5.19(5A)(d), or the work experience requirements in paragraph 5.19(5A)(e) or (f);

- if the visa application is made on or after 7 December 2024 and the visa application is for a Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence

Transition stream – the applicant did not, when the visa application was made, satisfy the new 2 year work experience requirement in clauses 186 or 186.227 of Schedule 2.

This is a consequential amendment that arises from the effects of items [118] and [122]. This updates subparagraph 2.12F(3B)(c)(vii) so that it continues to enable the refund of the first instalment of the VAC where the applicant did not satisfy either the work experience or eligibility period requirement for the visa stream.

Item [105] – Subregulation 2.72(13)

This item amends subregulation 2.72(13) of the Migration Regulations by omitting "5.19(5)(g)" and substituting "5.19(5A)(f)".

This is a consequential amendment that arises from item [118], which introduces new subregulation 5.19(5A) into the Migration Regulations to provide for the requirements for a nomination relating to a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream. The effect is that the Minister may exercise his instrument-making power under subregulation 2.72(13) to specify occupations for the purposes of paragraph 5.19(5A)(f).

This means that, if during the period of 3 years immediately before the application was made, the identified person held a Subclass 457 (Temporary Work (Skilled)) visa or a Subclass 482 (Temporary Skill Shortage) visa that was granted in an occupation specified in the instrument, then during that period of 3 years, the identified person must have been employed in the occupation for a total of at least 2 years (excluding periods of unpaid leave).

Item [106] – Subregulation 2.72(13)

This item amends subregulation 2.72(13) by inserting a reference to "subclause 186.227(2) of Schedule 2," after the existing reference to "subregulation 5.19(7)".

This is a consequential amendment that arises from item [120], which introduces new clause 186.227 into the Migration Regulations. The effect is that the Minister may exercise his instrument-making power under subregulation 2.72(13) to specify occupations for the purposes of subclause 186.227(2) of Schedule 2 to the Migration Regulations.

This means that, if during the period of 3 years immediately before an application for a Subclass 186 (Employer Nomination Scheme) visa is made, the applicant was granted a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or Subclass 482 (Temporary Skill Shortage) visa in an occupation specified in the instrument, then during that period of 3 years, the identified person must have been employed in the occupation for a total of at least 2 years (excluding periods of unpaid leave).

Item [107] – Paragraph 5.19(2)(a)

This item repeals and substitute paragraph 5.19(2)(a).

Previously, paragraph 5.19(2)(a) provided that an application to the Minister for the approval of a nomination of a position in Australia for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa must be made in accordance with approved form 1395 (Internet).

The substituted paragraph provides that the application must, subject to new subregulation 5.19(2AA), be made using the form specified by the Minister in a legislative instrument made for the purposes of this paragraph.

This changes made by this item support the amendments detailed in item [108], which empower the Minister to specify the nomination application form in a legislative instrument, similar to current subregulation 2.73(4) for the Subclass 482 visa.

Item [108] – After subregulation 5.19(2A)

This item inserts new subregulation 5.19(2AA) into the Migration Regulations.

New subregulation 5.19(2AA) provides, for the purposes of paragraph 5.19(2)(a), that, if the Minister specifies in a legislative instrument made for the purposes of this subregulation:

- a different way of making an application for a Subclass 186 (Employer Nomination Scheme) visa in circumstances specified in the instrument – the application may be made in that way;

- if the Minister specifies a form for the different way for making the application – the application must be made using that form.

The effect of new subregulation 5.19(2A) is to empower the Minister to create an instrument that allow for different ways to make an application for a Subclass 186 (Employer Nomination Scheme) visa in the circumstances specified in the instrument, and to specify the form that must be used for making an application for a different way.

For example, the Minister could create an instrument allowing for contingency manual nominations in relation to the Subclass 186 (Employer Nomination Scheme) visa. This parallels arrangements currently in place for the Subclass 482 visa that exist as a result of the Minister exercising their instrument-making power under subregulations 2.73(4) and 2.73(7) of the Migration Regulations (see *Migration (LIN 19/215: Sponsorship Applications and Nominations for Subclass 407, 457, 482 and 494 Visas) Instrument 2019))*.

Item [109] – Paragraph 5.19(4)(e)

This item amends paragraph 5.19(4)(e) by omitting "visa in a Temporary" and substitute the words "Subclass 186 (Employer Nomination Scheme) visa in the Temporary".

This amendment supports the amendment made to subregulation 5.19(5) in item [110], which have the effect of confining the applicability of subregulation 5.19(5) to a nomination made in relation to the Temporary Residence Transition stream of the Subclass 186 (Employer Nomination Scheme) visa (and no longer the Subclass 187 (Regional Sponsored Migration Scheme) visa).

The combined effect of items [107] and [110] is to update the general requirement for approval in paragraph 5.19(4)(e) to provide that the requirements set out in subregulation (5) must be met if a nomination relates to a visa in a Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

Item [110] – After paragraph 5.19(4)(e)

This item inserts new paragraph 5.19(4)(ea) into the Migration Regulations.

The insertion of new paragraph 5.19(4)(ea) supports the amendments detailed in item [118] below, which inserts new subregulation 5.19(5A) to set out the nomination requirements in relation to a Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Resident Transition Scheme, that apply in addition to the general requirements in subregulations 5.19(1) to (4).

The effect of this item is to insert a provision in the general requirements for approval in subregulation 5.19(4), providing that the additional requirements in new subregulation 5.19(5A) must be met, if the nomination relates to a Subclass 187 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

Item [111] – Subregulation 5.19(5) (heading)

This item repeals and substitutes the heading to subregulation 5.19(5).

The effect of this item is to clarify that subregulation 5.19(5) only detail the additional requirements for approval with respect for nominations relating to the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream. This reflects the amendment made through item [112], as discussed below.

Item [112] – Subregulation 5.19(5)

This item amends subregulation 5.19(5) to the Migration Regulations by omitting "visa in a Temporary" and substituting the words "Subclass 186 (Employer Nomination Scheme) visa in the Temporary".

Previous subregulation 5.19(5) set out a series of requirements for approval that must be met by a nomination relating to a visa in a Temporary Residence Transition stream, regardless of whether this is referring to the Subclass 186 (Employer Nomination Scheme) visa or the Subclass 187 (Regional Sponsored Migration Scheme) visa. These requirements must be satisfied in addition to those set out in subregulations 5.19(1) to (4).

This item has the effect of ensuring that subregulation 5.19(5) is confined to the Subclass 186 (Regional Sponsored Migration Scheme) visa, meaning that it no longer applies to a nomination made in relation to a Subclass 187 (Employer Nomination Scheme) visa, as it currently does.

The new nomination requirements for the Subclass 187 (Employer Nomination Scheme) visa in the Temporary Resident Transition stream is now set out separately in new subregulation 5.19(5A), as explained in item [118].

Item [113] – After subparagraph 5.19(5)(a)(ii)

This item inserts new subparagraph 5.19(5)(a)(iia) into the Migration Regulations.

The effect of the new paragraph is to expand the range of visa subclasses listed in paragraph 5.19(5)(a) to include the new Subclass 482 (Skills in Demand) visa. The inclusion of a reference to the Subclass 482 (Skills in Demand) visa in paragraph 5.19(5)(a) is necessary to

ensure that a holder of this visa is eligible for a nomination for the Subclass 186 (Employer Nomination Scheme) in the Temporary Residence Transition stream.

This creates a pathway for holders of the Subclass 482 (Skills in Demand) visa to attain permanent residency through the Subclass 186 (Employer Nomination Scheme) in the Temporary Residence Transition stream.

Item [114] – Subparagraph 5.19(5)(a)(iii)

This item s amends subparagraph 5.19(a)(iii) of the Migration Regulations by omitting "subparagraph (i) or (ii)" and substituting "paragraph (i), (ii) or (iia)".

This is a consequential amendment that supports the change effected through item [113], to ensure that subparagraph 5.19(5)(a)(iii) covers certain holders of a Bridging Visa where their last substantive visa was a Subclass 482 (Skills in Demand) visa. The effect of this item, when combined with the changes made by item [112], is to enable the identified person to hold the following classes of visas at the time that their application to the Subclass 186 (Employer Nomination Scheme) in the Temporary Residence Transition stream is made:

- Subclass 457 (Temporary Work (Skilled)) visa; or
- Subclass 482 (Temporary Skill Shortage) visa; or
- Subclass 482 (Skills in Demand) visa; or
- if the last substantive visa held by the identified person was any of the Subclass 457 (Temporary Work (Skilled)) visa, the Subclass 482 (Temporary Skill Shortage) visa, or the Subclass 482 (Skills in Demand) visa – a bridging visa granted on the basis that the person is an applicant for one of these visas or an applicant for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa.

Item [115] – Subparagraph 5.19(5)(b)(ii)

This item repeals and substitutes subparagraph 5.19(5)(b)(ii) of the Migration Regulations.

New subparagraph 5.19(5)(b)(ii) clarifies the requirements around the nominated person's occupation in relation to an application to the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

The effect of the new subparagraph is to require that the nominated occupation for the identified person is the same occupation in relation to which their most recently held Subclass 457 (Temporary Work (Skilled)) visa, Subclass 482 (Temporary Skill Shortage) visa or Subclass 482 (Skills in Demand) visa was granted. The requirement that the occupation must be listed in ANZSCO, as provided for through subparagraph 5.19(5)(b)(i), remain unchanged, but there is no longer be any requirement that the 4-digit ANZSCO code must be identical to the code that existed when the most recently held visa was granted.

The removal of any reference to the 4-digit ANZSCO code generates flexibility so that updates to occupation codes and groupings through ANZSCO updates do not disadvantage

the applicant. In practice, flexibility to consider the occupation at the 4-digit ANZSCO unit group level could continue under policy.

Item [116] – Paragraphs 5.19(e) to (g)

This item repeals paragraphs 5.19(e) to (g).

The repeal of these paragraphs mean that the requirements previously set out in these paragraphs (relating to work experience requirements etc.) are no longer be assessed at the nomination process for the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

The changes made by this item support the amendments made by item [122] to move the assessment of certain requirements from the nomination process to the visa application process. The criteria previously set out in paragraphs 5.19(e), (f), and (g) have been moved to the Temporary Residence Transition stream requirements for the Subclass 186 (Employer Nomination Scheme) visa in Schedule 2 of the Migration Regulations.

Item [117] – At the end of paragraph 5.19(5)(o)

This item adds new subparagraph 5.19(5)(o)(iv) into the Migration Regulations.

With subregulation 5.19(5) now confined to the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream (see item [112]), paragraph 5.19(5)(o) imposes the nomination requirements set out in subregulation 2.72(15) of the Migration Regulations onto a nomination for that stream, albeit subject to the modifications listed in sub-paragraphs (i), (ii), and (iii).

The insertion of new subparagraphs 5.19(5)(o)(iv), (v), and (vi) ensures that the requirements imposed through paragraphs 2.72(15)(d) and (f) and subparagraph 2.72(16)(a)(i) are also modified, as the existing words in those provisions is replaced with the words in the subparagraphs introduced by this item.

The effect of the new paragraph is to provide that:

- the Annual Market Salary Rate (AMSR), excluding any non-monetary benefits, is calculated as being no less than the amount of the Core Skills Income Threshold ($73,150) (paragraph 2.72(15)(d)), unless the Minister is satisfied that it is reasonable in the circumstances to do disregard this criterion (paragraph 2.72(16)(a)); and

- the identified person's annual earnings in relation to the occupation will not be less than the Core Skills Income Threshold ($73,150) (paragraph 2.75(15)(f)).

The purpose of the amendments is to ensure that changes to the salary requirements for the Subclass 482 (Skills in Demand) visa (specifically, replacing the TSMIT with the Core Skills Income Threshold) are reflected in the nomination requirements for the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence stream. The linkage to the nomination salary requirements for the Subclass 482 (Skills in Demand) visa is retained to ensure consistency between the temporary and permanent employer sponsored salary requirements.

Item [118] – After subregulation 5.19(5)

This item inserts new subregulation 5.19(5A) into the Migration Regulations, and a heading to the subregulation.

New subregulation 5.19(5A) sets out a series of requirements that must be met by a nomination in relation to the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Resident Transition stream, in addition to the existing requirements set out in subregulations 5.19(1) to (4).

The requirements for approval listed in new subregulation 5.19(5A) are generally consistent with the previous requirements to the "Temporary Resident Transition stream" (for both the Subclass 186 (Employer Nomination Scheme) and Subclass 187 (Regional Sponsored Migration Scheme)) visas) that were previously listed in subregulation 5.19(5), before the commencement date. The main difference is in relation to the salary requirements listed at paragraph 5.19(5)(m), which is now linked to regulation 2.72C to ensure that references to TSMIT are retained.

Item [119] – Subregulation 5.19(6)

This item amends subregulation 5.19(6) of the Migration Regulations by omitting "(5)(e), (f) and (g)" and substituting "(5A)(d), (e), and (f)".

This is a consequential amendment that reflects the changes made by item [118], which introduces new subregulation 5.19(5A) into the Migration Regulations to provide for the additional requirements for a nomination in relation to the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Resident Transition stream.

The effect of this item is to empower the Minister to determine different periods of time for the purposes of new paragraphs 5.19(5A)(d), (e) and (f) through legislative instrument.

Item [120] – Subregulation 5.19(7)

This item amends subregulation 5.19(7) of the Migration Regulations by inserting "and (5A)(h), (i) and (j)" after "and (l)".

This is a consequential amendment that reflects the changes made by item [118], which introduced new subregulation 5.19(5A) into the Migration Regulations to provide for the additional requirements for a nomination in relation to the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Resident Transition stream.

The effect of this item is to ensure that the following requirements do not apply in relation to an occupation specified in an instrument made under subregulation 2.72(13):

- the application identifies a need for the identified person to be employed in the position, under the direct control of the nominator (paragraph 5.19(5A)(h));
- there is a genuine need for the identified person to be employed in the position, under the direct control of the nominator (paragraph 5.19(5A)(i));
- the identified person will be employed on a full-time basis in the position for at least 2 years (paragraph 5.19(5A)(j)).

Item [121] – At the end of paragraph 5.19(9)(h)

This item inserts new subparagraphs 5.19(9)(h)(iv), (v), and (vi) into the Migration Regulations.

Paragraph 5.19(5)(h) imposes the nomination requirements set out in subregulation 2.72(15) of the Migration Regulations onto an application to the Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry stream, albeit subject to the modifications listed in sub-paragraphs (i), (ii), and (iii).

The insertion of new subparagraphs 5.19(5)(o)(iv), (v), and (vi) ensures that the requirements imposed through paragraphs 2.72(15)(d) and (f) and subparagraph 2.72(16)(a)(i) are modified, as the existing words in those provisions are replaced with the words in the subparagraphs introduced by this item.

The effect of the new paragraphs is to provide that:

- the Annual Market Salary Rate (AMSR), excluding any non-monetary benefits, is calculated as being no less than the amount of the Core Skills Income Threshold ($73,150) (paragraph 2.72(15)(d)), unless the Minister is satisfied that it is reasonable in the circumstances to do disregard this criterion (paragraph 2.72(16)(a));

- the identified person's annual earnings in relation to the occupation will not be less than the Core Skills Income Threshold ($73,150) (paragraph 2.75(15)(f)).

The purpose of this amendment is to ensure that changes to the salary requirements for the Subclass 482 (Skills in Demand) visa (specifically, replacing the TSMIT with the CSIT) are reflected in the nomination requirements for the Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry stream. The linkage to the nomination salary requirements for the Subclass 482 (Skills in Demand) visa is retained to ensure consistency between the temporary and permanent employer sponsored salary requirements.

Item [122] – At the end of Subdivision 186.22 of Schedule 2

This item inserts new clauses 186.226 and 186.227 at the end of Subdivision 186.22 of Schedule 2 to the Migration Regulations.

These clauses set out the eligibility period requirements (clause 186.226) and work experience requirements (clause 186.227) that must be satisfied by a primary applicant for the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

The effect of these amendments is to move the assessment of these requirements from the nomination process (regulation 5.19) to the visa application process to reflect the fact that all periods of sponsored employment with multiple employers now count towards work experience under new clause 186.227.

This reform means that it is no longer be appropriate to retain the assessment of the work experience at the nomination process, as it would require the nominating employer to

substantiate periods of employment for which they may not reasonably have access to evidence (e.g., employment contracts with other businesses, payslips etc.).

Clause 186.226 – Eligibility period requirements

New subclause 186.226(1) of the Migration Regulations require a primary applicant for the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream to have held one or more of the following visas for a total period of at least 2 years, in the 3 years immediately before the application for the visa is made:

- Subclass 457 (Temporary Work (Skilled)) visa (paragraph 186.226(a));
- Subclass 482 (Temporary Skill Shortage) visa (paragraph 186.226(b));
- Subclass 482 (Skills in Demand) visa (paragraph 186.226(c));
- if the last substantive visa was any of these three visas – a Bridging Visa granted on the basis that the person was making an application for one of these visas, a Subclass 186 (Employer Nomination Scheme) visa, or a Subclass 187 (Regional Sponsored Migration Scheme) visa (paragraph 186.226(d)).

New subclause 186.226(2) in Schedule 2 to the Migration Regulations empowers the Minister to create an instrument that specifies different periods of time for the purposes of subclause (1) for the persons specified in the instrument.

Clause 186.227 – Work experience requirements

Clause 186.227 of the Migration Regulations imposes work experience requirements onto a primary applicant for the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

Subclause 186.227(1) in essence provides that the applicant must have undertaken full-time sponsored employment in Australia, for a total period of at least 2 years (not including periods of unpaid leave) in the period of 3 years immediately before the visa application was made. The applicant must have been employed in an occupation in relation to which one (or more) of the following visas were granted:

- Subclass 457 (Temporary Work (Skilled)) visa (paragraph 186.226(a));
- Subclass 482 (Temporary Skill Shortage) visa (paragraph 186.226(b));
- Subclass 482 (Skills in Demand) visa (paragraph 186.226(c)).

The clause ensures that any full-time sponsored employment undertaken in Australia in relation to these visas can count towards the two year requirement (replacing the current requirement in paragraph 5.19(5)(f) that the applicant was employed in the position to which their visa was granted). This gives effect to the Government's commitment in the Migration Strategy to establishing improved pathways to permanent residence.

Subclause 186.227(2) parallels the requirement that was previously set out in paragraph 5.19(5)(g), and applies if one (or more) of the visas mentioned in paragraph 186.226(a), (b),

or (c) were granted in relation to an occupation specified in an instrument made under subregulation 2.72(13). During the period of 3 years immediately before the application is made, the applicant must have been employed in the occupation for a total period of at least 2 years (not including periods of annual leave).

New subclause 186.227(3) empowers the Minister to create an instrument that specifies different periods of time for the purposes of subclauses (1) and (2) for the persons specified in the instrument.

Item [123] – Clause 186.312 of Schedule 2

This item repeals clause 186.312 of Schedule 2 to the Migration Regulations, to no longer require a family member of the primary applicant for a Subclass 186 (Employer Nomination Scheme) visa to be included in the nomination application made under regulation 5.19, for them to be granted a visa.

The effect of this is to remove a requirement in the secondary criteria to the Subclass 186 (Employer Nomination Scheme) visa that creates an unnecessary step for family members, which may also create complications where a person becomes a family member after the nomination is lodged (e.g., by birth or marriage), but before a decision is made on the visa. The existing requirement is also redundant as, unlike the Subclass 482 visa, employers of a Subclass 186 (Employer Nomination Scheme) visa do not have any obligation to the employee's family members.

Part 3—Aligning Sponsorship Obligations

Item [124] – Regulation 2.79 (heading)

This item amends the heading to regulation 2.79 by inserting ", **Subclass 482 (Skills in Demand) visa**" after "**Subclass 457 (Temporary Work (Skilled)) visa**" to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

The sponsorship obligation set out under regulation 2.79 is updated to extend to a holder of a Subclass 482 (Skills in Demand) visa, as discussed further under item [137].

Item [125] – Paragraph 2.80(3)(d)

This item amends paragraph 2.80(3)(d) of the Migration Regulations by inserting "the Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa".

This item works together with the changes introduced by item [137] (specifically, at (f) to (i)) to ensure that the sponsorship obligation to pay travel costs to enable sponsored persons to leave Australia etc under regulation 2.80 is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa.

The combined effect of these amendments is to require a sponsor to a holder of either a Subclass 482 (Skills in Demand) visa or a Bridging Visa (whose last substantive visa is a Subclass 482 (Skills in Demand) visa), to pay the travel costs of the primary sponsored person or secondary sponsored person to leave Australia etc under subregulation 2.80(2) if:

- the costs have been requested in writing by a person listed in subparagraph 2.80(2)(a)(i) to (v) (which includes the Minister, the primary sponsored person and the secondary sponsored person); and
- the costs have not already been paid in accordance with regulation 2.80 (paragraph 2.80(2)(b)); and
- the costs are reasonable and necessary (paragraph 2.80(2)(c)); and
- the request to pay travel costs is be made while the person whose travel will be funded is the holder of a visa listed in paragraph 2.80(3)(d) (which has been amended to include the Subclass 482 (Skills in Demand) visa).

Item [126] – Sub-subparagraph 2.80(5)(b)(ii)(A)

This item amends sub-subparagraph 2.80(5)(b)(ii)(A) to insert ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa" (second occurring).

The amendment made by this item ensures that sub-subparagraph 2.80(5)(b)(ii)(A) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The effect is that the sponsorship obligation under subregulation 2.80(2) to pay the travel costs of the primary sponsored person to leave Australia etc ceases on the day on which a primary sponsored person is granted a further substantive visa that is in effect and is:

- if the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa – a visa that is not a Subclass 457 (Temporary Work Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or a Subclass 482 (Temporary Skill Shortage) visa (subparagraph 2.80(5)(b)(ii)(A)); or

- in any other case – a visa of a different subclass to the last substantive visa held by the primary sponsored person.

This is unless one of the other scenarios listed in paragraph 2.80(5)(b) occurs first, in which case the sponsorship obligation ceases on the day listed in the relevant provision.

Item [127] – Sub-subparagraph 2.80(5)(b)(iii)(B)

This item amends sub-subparagraph 2.80(5)(b)(iii)(B) to insert "the Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa".

The amendment made by this item ensures that sub-subparagraph 2.80(5)(b)(iii)(B) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The effect is that the sponsorship obligation for under subregulation 2.80(2) to pay the travel costs of the primary sponsored person to leave Australia etc ceases on the day in which each of the following occurs, unless one of the other scenarios listed in paragraph 2.80(5)(b) occurs first:

- the primary sponsored person has left Australia (sub-subparagraph 2.80(5)(b)(iii)(A); and

- the relevant visa in sub-subparagraph 2.80(5)(b)(iii)(B), which has been amended to include a reference to the Subclass 482 (Skills in Demand) visa, has ceased to be in effect; and

- if the primary sponsored person held a Subclass 020 (Bridging B) visa when they left Australia, and the last substantive visa is listed in sub-subparagraph 2.80(5)(b)(iii)(C), the bridging visa has ceased to be in effect.

Item [128] – Sub-subparagraph 2.80(5)(c)(ii)(A)

This item amends sub-subparagraph 2.80(5)(c)(ii)(A) to insert ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa" (second occurring).

The amendment made by this item ensures that sub-subparagraph 2.80(5)(c)(ii)(A) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The effect is that the sponsorship obligation for under subregulation 2.80(2) to pay the travel costs of the secondary sponsored person to leave Australia etc ceases on the day on which a secondary sponsored person is granted a further substantive visa that is in effect and is:

- if the last substantive visa held by the secondary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa – a visa that is not a Subclass 457 (Temporary Work Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or a Subclass 482 (Temporary Skill Shortage) visa (subparagraph 2.80(5)(c)(ii)(A)); or

- in any other case – a visa of a different subclass to the last substantive visa held by the secondary sponsored person (subparagraph 2.80(5)(c)(ii)(B)).

This is unless one of the other scenarios listed in paragraph 2.80(5)(c) occurs first, in which case the sponsorship obligation will cease on the day listed in the relevant provision.

Item [129] – Sub-subparagraph 2.80(5)(c)(iii)(B)

This item amends sub-subparagraph 2.80(5)(c)(iii)(B) to insert "the Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa".

The amendment made by this item s ensures that sub-subparagraph 2.80(5)(c)(iii)(B) is revised to reflect the implementation of the Subclass 482 (Skills in Demand) visa. The effect is that the sponsorship obligation under subregulation 2.80(2) to pay the travel costs of the secondary sponsored person to leave Australia etc ceases on the day in which each of the following occurs, unless one of the other scenarios listed in paragraph 2.80(5)(c) occurs first:

- the secondary sponsored person has left Australia (sub-subparagraph 2.80(5)(c)(iii)(A); and

- the relevant visa in sub-subparagraph 2.80(5)(c)(iii)(B), which has been amended to include a reference to the Subclass 482 (Skills in Demand) visa, has ceased to be in effect; and

- if the primary sponsored person held a Subclass 020 (Bridging B) visa when they left Australia, and the last substantive visa is listed in sub-subparagraph 2.80(5)(c)(iii)(C) (which has been amended to include a reference to the Subclass 482 (Skills in Demand) visa through item [137]), the bridging visa has ceased to be in effect.

Item [130] – Subregulation 2.86(2)

This item s amends subregulation 2.86(2) of the Migration Regulations to insert "a Subclass 482 (Skills in Demand) visa," after "Subclass 457 (Temporary Work (Skilled)) visa" (wherever occurring).

Regulation 2.86 of the Migration Regulations imposes an obligation onto a person who is, or was, an approved work sponsor, to ensure that the primary sponsored person works or participates in the nominated occupation, position, or activity.

The effect of this amendment is that the sponsorship obligation under subregulation 2.86(2) is updated to extend to primary holders of a Subclass 482 (Skills in Demand) visa, or the holder of a Bridging Visa whose last substantive visa was a Subclass 482 (Skills in Demand) visa. The sponsorship obligation is to ensure that the primary sponsored person:

- works in the nominated occupation (paragraph 2.86(2)(a)); and

- does not work in an occupation unless both of the following apply (paragraph 2.86(2)(b)):

- the nomination was nominated by the person in relation to the primary sponsored person under subsection 140GB(1) of the Act;

- the nomination was approved by the Minister under subsection 140GB(2) of the Act.

Item [131] – Paragraph 2.86(2A)(a)

This item s amends paragraph 2.86(2A)(a) of the Migration Regulations to insert "a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa" (wherever occurring).

The effect is that the sponsorship obligation under subregulation 2.86(2A) is updated to extend to either a primary holder of a Subclass 482 (Skills in Demand) visa or a holder of a bridging visa whose last substantive visa was a Subclass 482 (Skills in Demand) visa, as long as the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13). This means that the person must ensure that:

- if the person is, or was, a standard business sponsor who was lawfully operating business in Australia etc – the primary sponsored person is engaged only as an employee of the person, or an employee of an associated entity of the person (paragraph 2.86(2A)(c)); or

- if the person is, or was, a standard business sponsor who was not lawfully operating a business in Australia, and was lawfully operating a business outside Australia etc – the primary sponsored person is engaged only as an employee of the person (paragraph 2.86(2A)(d)); or

- if the person is or was a party to a work agreement – the person is engaged only as an employee to the person (paragraph 2.86(2A)(e)).

Item [132] – Paragraph 2.86(2AA)(aa)

This item s amends paragraph 2.86(2AA)(a) of the Migration Regulations to insert ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa" (wherever occurring).

The effect is that the sponsorship obligation under subregulation 2.86(2AA) is updated to extend to either a primary holder of a Subclass 482 (Skills in Demand) visa or a holder of a Bridging Visa whose last substantive visa was a Subclass 482 (Skills in Demand) visa, as long as the nominated occupation is not an occupation specified by the Minister in an instrument made under subregulation 2.72(13).

The sponsorship obligation in subregulation 2.86(2AA) is confined only to a person who is, or was a standard business sponsor, and requires the person to ensure that:

- the primary sponsored person is employed under a written contract of employment (paragraph 2.86(2AA)(a)); and

- if the person is, or was, a standard business sponsor who was lawfully operating a business in Australia etc – the person does not (paragraph 2.86(2AA)(b):

- engage in activities that relate to the recruitment of a visa holder, an applicant for a visa, or a proposed applicant for a visa, for the purpose of supplying the holder etc to a business that is not associated the person; and

- engage in activities that relate to the hire of a visa holder to a business that is not associated with the person;

- if the person is, or was, a standard business sponsor who was not lawfully operating a business in Australia and was lawfully operating a business outside Australia etc – the person does not (paragraph 2.86(2AA)(c)):

    - engage in activities that relate to the recruitment of a visa holder, an applicant for a visa, or a proposed applicant for a visa, for the purpose of supplying the holder etc to any other business; and

    - engage in activities that relate to the hire of a visa holder to any other business.

Item [133] – Paragraphs 2.86(2AB)(c) and (d)

This item amends paragraphs 2.86(2AB)(c) and (d) by inserting "(as in force before 7 December 2024)" after "Medium-term stream".

This amendment updates the existing reference to the Subclass 482 (Temporary Skill Shortage) visa by clarifying that the sponsorship obligation in subregulation 2.86(2AB) applies in relation to a primary sponsored person who holds:

- a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, as in force before 7 December 2024; or

- a bridging visa, and whose last substantive visa was a Subclass 482 (Temporary Skill Shortage) visa in the Short-term stream or Medium-term stream, as in force before 7 December 2024.

Item [134] – At the end of subregulation 2.86(2AB)

This item inserts paragraphs 2.86(2AB)(e) and (f) into the Migration Regulations.

The express reference to a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream ensures that the sponsorship obligation in subregulation 2.86(2AA) (discussed in item [130]) applies to a primary sponsored person who holds that visa, or a Bridging Visa (where their last substantive visa was a Subclass 482 (Skills in Demand) visa in the Specialist Skills stream or Core Skills stream).

Item [135] – Sub-subparagraph 2.86(3)(b)(ii)(A)

This item amends sub-subparagraph 2.86(3)(b)(ii)(A) of the Migration Regulations by inserting ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled)) visa.

This amendment s updates sub-subparagraph 2.86(3)(b)(ii)(A) to include a reference to the Subclass 482 (Skills in Demand) visa. The effect is that the sponsorship obligations

mentioned in subregulations 2.86(2) to (2C) of the Migration Regulations would, unless one of the other scenarios in paragraph 2.86(2)(b) occurs first, end on the day on which the primary sponsored person is granted a further substantive visa that is in effect and is:

- if the last substantive visa held by the primary sponsored person was a Subclass 457 (Temporary Work (Skilled)) visa – a visa that is not a Subclass 457 (Temporary Work (Skilled)) visa, a Subclass 482 (Skills in Demand) visa, or a Subclass 482 (Temporary Skill Shortage) visa; or

- in any other case – a visa of a different subclass to the last substantive visa held by the primary sponsored person.

Item [136] – After subparagraph 2.86(3)(b)(ii)

This item inserts new subparagraph 2.86(3)(b)(iia) into the Migration Regulations.

This insertion, in essence, make it clear that the sponsorship obligations mentioned in subregulations 2.86(2) to (2C) of the Migration Regulations s ends on the day on which the primary sponsored person ceases employment with the approved work sponsor, unless one of the other scenarios listed under paragraph 2.86(3)(b) occurs first.

The effect of this new subparagraph 2.86(3)(b)(iia) is to align the sponsorship obligations mentioned in subregulations 2.86(2) to (2C) of the Migration Regulations with the recent labour market mobility reforms introduced through the *Migration Amendment (Work Related Visa Conditions) Regulations 2024*, which commenced on 1 July 2024, and applied to the following visa subclasses:

- Subclass 457 (Temporary Work (Skilled)) visa;

- Subclass 482 (Temporary Skill Shortage) visa;

- Subclass 494 (Skilled Employer Sponsored Regional (Provisional) visa).

Those reforms increased the time in which temporary migrant workers holding one of these subclasses may cease to work in accordance with the normal requirements of Visa Conditions 8107, 8607, and 8608 (as applicable), that otherwise restricts their ability to work outside their sponsorship arrangement. As detailed under items [97], [98], and [99], these settings are also be extended to the Subclass 482 (Skills in Demand) visa.

The insertion of new subparagraph 2.86(3)(b)(iia) therefore ensure that regulation 2.86 is consistent with those reforms. Without this new subparagraph, the Minister is able to take action (e.g., under section 140K of the Migration Act) against an approved sponsor's non-compliance with a sponsorship obligation, in circumstances where the visa holder has changed employer – an outcome that would be inconsistent with the intent of the *Migration Amendment (Work Related Visa Conditions) Regulations 2024*.

Item [137] – Amendments of listed provisions

This item amends the following provisions by inserting ", a Subclass 482 (Skills in Demand) visa" after "Subclass 457 (Temporary Work (Skilled))" visa in the following provisions to the Migration Regulations:

- subparagraphs 2.79(1)(a)(i) and (ii);
- subparagraphs 2.79(1)(b)(i) and (ii);
- subparagraphs 2.79(1A)(a)(i) and (ii);
- subparagraph 2.79(4)(a)(iii);
- sub-subparagraph 2.79(4)(b)(i)(A);
- subparagraphs 2.80(1)(d)(i) and (ii);
- subparagraphs 2.80(1)(e)(i) and (ii);
- subparagraph 2.80(5)(a)(ii);
- sub-sub-subparagraph 2.80(5)(c)(iii)(C)(II);
- sub-paragraphs 2.82(3)(c)(i) and (ii);
- subregulation 2.86(2C).

The effect is to ensure that each of these provisions are updated to reflect the implementation of the Subclass 482 (Skills in Demand) visa. In essence, the following provisions setting out sponsorship obligations is extended to cover a primary sponsored person who holds a Subclass 482 (Skills in Demand) visa, or a Bridging Visa (where their last substantive visa was a Subclass 482 (Skills in Demand) visa:

- regulation 2.79: to ensure equivalent terms and conditions of employment etc;
- regulation 2.80: to pay travel costs to enable sponsored persons to leave Australia etc (noting that this will also cover a secondary sponsored person under paragraph 2.80(1)(e));
- regulation 2.82: to keep records etc (including a record of the tasks performed by the primary sponsored person in relation undertaken in relation to the nominated occupation, and a record of the location or locations in which these tasks were performed);
- regulation 2.86: to ensure that the primary sponsored person works or participates in the nominated occupation, program, or activity etc.

Part 4 – Operation of amendments

Item [138] – In the appropriate position in Schedule 13

This item inserts Part 145 into the appropriate position in Schedule 13 to the Migration Regulations, which provides for the operation of amendments made by this instrument.

New clause 14501 provides that ***amending regulations*** in Part 145 means the *Migration Amendment (2024 Measures No. 1) Regulations 2024*.

Operation of Part 1 of Schedule 1

New clause 14502 provides for the operation of Part 1 of Schedule 1, which concerns the Subclass 482 (Skills in Demand) visa.

New subclause 14502(1) provides that Division 2.17 of Part 2A, as amended by Part 1 of Schedule 1 to the amending regulations, applies in relation to the nomination of a proposed application that is made on or after 7 December 2024.

New subclause 14502(2) sets out the application of the amending regulations in relation to a cohort of "orphaned" nominations for a proposed occupation for an applicant for the previous Subclass 482 (Temporary Skill Shortage) visa, that is, where a nomination for the Temporary Skill Shortage visa is not accompanied with a corresponding application to the visa before the commencement date of 7 December 2024.

Paragraph 14502(2)(e) enables this nomination to continue until the approval of the nomination ceases under regulation 2.75 (as amended by Part 1 of Schedule 1 to the amending regulations). The person may choose to "link" this approved nomination for the Temporary Skill Shortage visa to the subsequent application for the new Skills in Demand visa. The nominated occupation would:

- be taken, from when it is, or was approved, to have been approved in relation to an applicant, or proposed applicant for a Subclass 482 (Skills in Demand) visa; and

- be taken to have been nominated for the Subclass 482 (Skills in Demand) visa in:

    - if the occupation is an occupation in Major Group 1, 2, 4, 5 or 6 in ANZSCO and the annual earnings (excluding non-monetary benefits) for an applicant in relation to the occupation is equal to or more than the ***specialist skills income threshold*** – the Specialist Skills stream;

    - otherwise – the Core Skills stream.

If a person in this cohort chooses not to "link" their approved nomination for the Temporary Skill Shortage visa to the Skills in Demand visa, then their nomination ceases 12 months after the day the nomination was approved (paragraph 2.75(2)(b)).

New subclause 14502(3) provides that the Schedules 1 or 2 to the Regulations, as amended by Part 1 of Schedule 1 to the amending regulations, apply in relation to an application for a visa made on or after 7 December 2024.

The combined effects of new subclauses 14502(1), (2), and (3), is to give effect to the implementation of the Subclass 482 (Skills in Demand) visa on 7 December 2024, which replaces the Subclass 482 (Temporary Skill Shortage) visa.

New subclause 14502(4) provides that, despite the amendments of clause 8607 of Schedule 8 to these Regulations made by Part 1 of Schedule 1 to the amending regulations, that

clause, as in force immediately before 7 December, continues to apply in relation to the following as if the amendments had not been made:

- a visa granted before 7 December 2024;
- a visa granted on or after 7 December 2024, if the visa is granted as a result of an application for the visa made before 7 December 2024.

Operation of Part 2 of Schedule 1

New clause 14503 provides for the operation of Part 2 of Schedule 1 of the amending regulations, which concerns the changes made to the Subclass 186 (Employer Nomination Scheme) visa and the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition Stream.

New subclause 14503(1) provides that regulation 5.19, as amended by Part 2 of Schedule 1 of the amending regulations, applies in relation to an application for the approval of the nomination of a position made on or after 7 December 2024.

New subclause 14503(2) provides that clauses 186.226 and 186.227 of Schedule 2, as inserted by Part 2 of Schedule 1 to the amending regulations, apply in relation to an application for a visa:

- made on or after 7 December 2024; and
- made in relation to a position nominated in an application made under regulation 5.19 on or after 7 December 2024.

One effect of this subclause is to ensure that, where a nomination was lodged before 7 December 2024, the new work experience requirements inserted into Schedule 2 through item [122] (new clauses 186.226 and 186.227) do not have to be satisfied for a successful application to a Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream.

This is because the applicant has met the work experience requirements at the nomination stage (previous paragraphs 5.19(5)(e), (f), and (g)) that were in force before 7 December, i.e., before there was a requirement for the work experience requirements to be satisfied at the application stage. As a result, the pathway to permanent residence for these applicants is not adversely affected as a result of structural changes to the work experience requirements.

New subclause 14503(3) provides for the application of the repeal of 186.312 of Schedule 2 to the Migration Regulations. The requirement set out at clause 186.312 (to include the secondary applicant in the nomination application made by the primary applicant under regulation 5.19) no longer applies in relation to visa that is made, but not finally determined, before 7 December 2024, or made on or after 7 December 2024.

Operation of Part 3 of Schedule 1

New clause 14504 provides for the operation of Part 3 of Schedule 1 of the amending regulations, which concerns the alignment of sponsorship obligations with the *Migration Amendment (Work Related Visa Conditions) Regulations 2024*.

The clause provides that subregulation 2.86(3) of the Migration Regulations, as amended by Part 3 of Schedule 1 to the amending regulations, applies to a person who is an approved work sponsor in relation to a primary sponsored person whether the sponsor's approval in relation to the primary sponsored person was given before, on, or after 7 December 2024.