

LIN 24/092

Migration (Arrangements for Employer Nomination and Regional Employer Nomination Skilled Visas) Instrument 2024

I, Julian Hill, Assistant Minister for Citizenship and Multicultural Affairs, make the following instrument.

Dated 6 December 2024

Julian Hill

Assistant Minister for Citizenship and Multicultural Affairs

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Part 1—Preliminary

1 Name

 This instrument is the *Migration (Arrangements for Employer Nomination and Regional Employer Nomination Skilled Visas) Instrument 2024*.

2 Commencement

 This instrument commences on 7 December 2024.

3 Authority

 This instrument is made under subregulation 2.07(5) and regulation 5.19 of the *Migration Regulations 1994*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act or the Regulations, including the following:

(a) ***Internet application***;

(b) ***officer***.

 In this instrument:

***Act*** means the *Migration Act 1958*.

***Department*** means the Department of Home Affairs.

***nomination application*** means an application for approval of the nomination of a position.

***Regulations*** means the *Migration Regulations 1994*.

***subclass 186 visa*** means the Subclass 186 (Employer Nomination Scheme) visa.

5 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Nominations for subclass 186 and 187 visas

6 Approved form for nominations for subclass 186 and 187 visas

 (1) Subject to subsection (2), for the purposes of paragraph 5.19(2)(a) of the Regulations, approved form 1395 (Internet) is specified.

 (2) For the purposes of paragraph 5.19(2AA)(b) of the Regulations, approved form 1395 is specified as the form for a nomination application in relation to an application, or proposed application, for a subclass 186 visa made in the way specified in subsection 7(2).

7 Different way of making a nomination application for subclass 186 visa

 (1) For the purposes of paragraph 5.19(2AA)(a) of the Regulations, this section specifies:

 (a) a different way of making a nomination application in relation to an application, or proposed application, for a subclass 186 visa; and

 (b) the circumstances in which such an application may be made in that way.

 (2) For a nomination application in relation to an application, or proposed application, for a subclass 186 visa, if the circumstances specified in subsection (3) or (4) apply, and if:

 (a) an officer has sent an authorisation for a person to make an application in accordance with this subsection; and

 (b) the authorisation in paragraph (a) is sent by an email from e186.Manual.Lodgement@homeaffairs.gov.au;

then:

 (c) it is specified that the person may instead make an application by:

 (i) using the form specified in subsection 6(2), as provided with the authorising email; and

 (ii) emailing the completed application form to e186.Manual.Lodgement@homeaffairs.gov.au by the end of the day on which the authorisation was given (AEST or AEDST as applicable to the date on which the authorisation was given); and

 (iii) including in the email a copy of the authorising email sent by the Department that includes the name and position number of the officer who sent the authorising email.

 (3) This subsection specifies the following circumstances:

(a) the Department has identified a problem with its Internet application systems; and

(b) as a result of the problem referred to in paragraph (a), the applicant is unable to make an Internet application; and

(c) electronic lodgement of the application is not prevented by the Act or the Regulations; and

(d) it is more likely than not that the problem will not be rectified by the end of the business day on which the problem is identified by the Department, or if the problem is identified on a day that is not a business day—by the end of the next business day following the day on which the problem is identified; and

(e) any of the following applies:

 (i) a person who applies, or proposes to apply, for a visa in relation to the nomination application (an ***affected visa applicant***) will become an unlawful non-citizen on, or before, the next business day after the day identified in paragraph (d);

 (ii) an affected visa applicant will no longer hold a visa mentioned in paragraph 5.19(5)(a) of the Regulations on or before the next business day after the day identified in paragraph (d);

 (iii) an affected visa applicant will turn 45 on or before the next business day after the day identified in paragraph (d).

 (4) This subsection specifies the following circumstances:

(a) a problem is identified by the Department with the Department’s systems and the applicant is unable to make an Internet application as a result of that problem; and

(b) the problem referred to in paragraph (a) is unable to be rectified by the Department; and

(c) electronic lodgement of the application is not prevented by the Act or the Regulations.

Part 3—Approved forms and manner for application for Class EN or RN visa

8 Approved forms for the Class EN visa

 (1) Subject to subsection (2), for the purposes of subitem 1114B(1) of Schedule 1 to the Regulations, form 1408 (Internet) is specified as the approved form.

 (2) For the purposes of subitem 1114B(1) of Schedule 1 to the Regulations, approved form 1408 is specified for an application made in accordance with subsection 9(3).

9 Manner in which application for Class EN visa must be made

 (1) For the purposes of paragraph 1114B(3)(a) of Schedule 1 to the Regulations, subsections (2) and (3) specify the manner in which an application must be made.

 (2) Subject to subsection (3), an application must be made as an Internet application.

 (3) If subsection (4) or (5) applies, and if:

1. an officer has sent an authorisation for a person (***the applicant***) to make an application in accordance with this subsection; and
2. the authorisation in paragraph (a) is sent by an email from e186.Manual.Lodgement@homeaffairs.gov.au, then it is specified that the applicant may instead make an application by:

 (i) using the form specified in subsection 8(2), as provided with the authorising email; and

 (ii) emailing the completed application to e186.Manual.Lodgement@homeaffairs.gov.au by the end of the day on which the authorisation was given (AEST or AEDST as applicable to the date on which the authorisation was given); and

 (iii) including in the email a copy of the authorising email sent by the Department that includes the name and position number of the officer who sent the authorising email;

the application must be made in the manner specified in paragraph (b).

 (4) This subsection applies if:

(a) the Department has identified a problem with its Internet application systems; and

(b) as a result of the problem referred to in paragraph (a), the applicant is unable to make an Internet application; and

(c) electronic lodgement of the application is not prevented by the Act or the Regulations; and

(d) it is more likely than not that the problem will not be rectified by the end of the business day on which the problem is identified by the Department, or if the problem is identified on a day that is not a business day – by the end of the next business day following the day the problem is identified; and

(e) either:

 (i) the applicant will become an unlawful non-citizen on, or before, the next business day after the day identified in paragraph (d); or

 (ii) the applicant will turn 45 on, or before, the next business day after the day identified in paragraph (d).

 (5) This subsection applies if:

(a) a problem is identified by the Department with the Department’s systems and the applicant is unable to make an Internet application as a result of that problem; and

(b) the problem referred to in paragraph (a) is unable to be rectified by the Department; and

(c) electronic lodgement of the application is not prevented by the Act or the Regulations.

10 Making an application for the Class RN visa

 (1) For the purposes of subitem 1114C(1) of the Regulations, form 1408 (Internet) is specified as the approved form.

 (2) For the purposes of paragraph 1114C(3)(a) of the Regulations, it is specified that an application must be made as an Internet application.

Schedule 1—Repeals

Migration Regulations 1994 - Specification of Arrangements for Employer Nomination and Regional Employer Nomination Skilled Visas 2015 (items 1114B and 1114C) (IMMI 15/032)

1 The whole of the instrument

Repeal the instrument.